United States Court of Appeals

for the

District of Columbia Circuit

TRANSCRIPT OF RECORD

F971

VOLUME I
JOINT APPENDIX

IN THE

United States Court of Appeals

FOR THE DISTRICT OF COLUMBIA CIRCUIT

No. 21147

UNITED STATES OF AMERICA, APPELLANT
v.
FEDERAL COMMUNICATIONS COMMISSION, APPELLEE

INTERNATIONAL TELEPHONE AND TELEGRAPH CORPORATION, AMERICAN BROADCASTING COMPANIES, INC., and ABC TELEVISION AFFILIATES ASSOCIATION, INTERVENORS

On Appeal from an Order of the Federal Communications Commission

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[Note.—Because of difficulties encountered in printing, the order of this index does not entirely correspond to the order in which the material appears in the joint appendix. In particular, the Commission orders and opinions, listed first in this index, do not appear consecutively, and the index should be consulted for the appendix pages.]

VOLUME 1

278–719—67——A

FCC 66–741
87367

BEFORE THE

FEDERAL COMMUNICATIONS COMMISSION

WASHINGTON, D.C. 20554

Docket No. 16828

In the Matter of

APPLICATIONS BY AMERICAN BROADCASTING COMPANIES, INC.

For Assignment of Licensee of Stations WABC, WABC–FM, WABC–TV, New York, N.Y.; WLS–FM, WBKB, Chicago, Ill.; KGO, KGO–FM, KGO–TV, San Francisco, Calif.; KABC, KABC–FM, KABC–TV, Los Angeles, Calif.

For Transfer of Control of Stations WLS, Chicago, Ill.; KQV and KQV–FM, Pittsburgh, Pa.; WXYZ, WXYZ–FM, WXYZ–TV, Detroit, Mich.

For Assignments and Transfers of Ancillary Radio Facilities.

ORDER AND NOTICE OF ORAL HEARING BEFORE THE COMMISSION EN BANC

BY THE COMMISSION: COMMISSIONER BARTLEY DISSENTING AND ISSUING A STATEMENT; COMMISSIONER COX CONCURRING AND ISSUING A STATEMENT IN WHICH COMMISSIONER JOHNSON JOINS.

1. This proceeding involves applications filed March 31, 1966, by American Broadcasting Companies, Inc. (ABC) for Commission approval of assignments and transfers of ABC's broadcasting licenses to a new corporation of the same name which will be a wholly owned subsidiary of International Tele-

278–719—67——1

phone and Telegraph Corporation (ITT). The applications contain and are accompanied by masses of data and numerous exhibits setting forth in great detail all of the factual information normally sought by the Commission in transfer proceedings, together with a large amount of additional information concerning the corporations involved.

2. On July 20, 1966, the Commission sent letters to the presidents of ABC and ITT requesting a further statement on specified points relating to the future operations of the new licensee company and ITT's public interest responsibilities in connection therein. On July 25, 1966, replies to these letters were received by the Commission from both ABC and ITT. The Commission's letters and the replies are part of the file herein. There are no oppositions filed against the proposed merger and assignments of licenses other than by the licensee of Radio Station KOB at Albuquerque, New Mexico relating to its own competing application for the frequency occupied by Station WABC in New York City, which is one of the stations proposed to be transferred to the new ABC.

3. The great bulk of data supporting the application is factual and statistical in nature. The Commission's review of such data has not indicated any questions of fact concerning the proposed transactions, nor has any such question been raised or called to our attention by any interested party. In this regard we note that the KOB opposition does not raise any broad question or factual issue concerning the merger plan as a whole, but rather a specific issue of right to a comparative hearing on a single frequency, which right we believe can fully be protected irrespectively of any comprehensive action taken on the merger proposals.

4. In light of the above, the Commission accepts the factual representations in the filings in this proceeding as authentic and accurate statements of fact and as evidence constituting the record herein. However, so as to preserve the right for interested parties to raise any such questions of fact as may appropriately be shown we are herein establishing a procedure whereby any party desiring to offer other or further evidence in this proceeding may file a written statement of such

evidence within 20 days of the date of release of this order. Any statement of facts so filed will be accepted and received as evidence herein, subject to all proper objections and arguments as to relevance and materiality, unless an objection is filed challenging the authenticity or accuracy of such statement within five days after the filing and service upon the parties of any such statement of facts. In the event of such an objection, the Commission will issue an appropriate order as to the controverted matters. We follow such a procedure on our present conclusion that no evidentiary hearing for the adjudication of contested facts is required, and that we can appropriately compile a full and accurate factual record without such hearing on which to base our legal and policy determinations in the matter.

5. The Commission has concluded however that the pending proposals do raise legal and policy issues of substance and significance which require the Commission's further consideration in an oral hearing before it *en banc*. Such a hearing will provide a further opportunity for the exploration of such issues on a formal record which should materially assist the Commission in its consideration of an action upon such issues. Accordingly, the Commission orders that an oral argument upon such applications be held before the full Commission on September 19, 1966, at 10 A.M. in the Commission's hearing room in Washington, D.C. The Commission requests the parties to address themselves to the general issues whether the proposed transfers will (a) Increase unduly economic concentration in any market or field; (b) Affect competition in broadcasting and whether such effect would be consonant with or contrary to the public interest; and (c) Generally serve the public interest. The applicants may also desire to supplement, or otherwise cover, matters raised by the Commission's inquiries of June 20, 1966 and the replies thereto (see Paragraph 2, above). In addition, the applicants should, insofar as possible, be prepared to address themselves to all issues of law and policy (as well as any factual issues pursuant to Paragraph 4, above), which may be raised for discussion by the Commission or any party to the proceeding.

6. The Commission's Broadcast Bureau and Common Carrier Bureau will participate in the oral hearing. The Commission anticipates that both Bureaus will, in matters under their respective jurisdictions, raise all pertinent questions of law and policy so that we may have a complete record before us. Other interested parties, including Radio Station KOB (see Paragraph 3 above), may ask to be heard with respect to any question affecting the Commission's disposition of the pending applications. In addition, oral presentations may cover and include any factual question that may have been raised in accordance with the procedures set forth in Paragraph 4 above.

7. Interested parties desiring to appear and be heard before the Commission shall file a statement on or before September 5, 1966, designating the attorneys and other spokesmen or officials who would appear and indicating the length of time which they anticipate would be required for their presentation. Such parties should also generally indicate the subject-matter of their presentation, that is, the particular issues to which they would address themselves. The Commission will upon the receipt of the indicated written statements, issue such further order prescribing the order of appearance of parties to be heard, the length of their presentations and such other procedures for the oral argument as may be appropriate in the circumstances.

8. Following the oral hearing designated herein the Commission will consider and take such further action upon the pending applications, both procedurally and substantively, as may be required by the record then before us.

FEDERAL COMMUNICATIONS COMMISSION,[1]
BEN F. WAPLE, *Secretary.*

Adopted: August 17, 1966.
Released: August 18, 1966.

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[1] See attached dissenting statement of Commissioner Bartley. See attached concurring opinion of Commissioner Cox in which Commissioner Johnson joins.

DISSENTING STATEMENT OF COMMISSIONER ROBERT T. BARTLEY

I dissent and vote for a formal evidentiary hearing pursuant to Section 309(e) of the Communications Act and Sections 5, 7 and 8 of the Administrative Procedure Act, for the reasons, among others, given in my statement opposing issuance of the July 20, 1966 letters of inquiry to ITT and ABC, which statement is incorporated herein by reference.

The "Order And Notice Of Oral Hearing" is unique in that it is neither an oral argument pursuant to the Administrative Procedure Act nor an evidentiary hearing pursuant to Section 309(e) of the Communications Act, yet it gives the appearance of both. The Commission majority, in accepting the factual representations in the filings by ITT and ABC as authentic and accurate statements of fact and as evidence constituting the record herein, seems to ignore the additional facts which would be developed in the evidentiary hearing I propose. See, for example, Issues 10, 11, 12 and 13.

The "Order And Notice Of Oral Hearing" is, in my opinion, inadequate and ineffective since it will elicit opinion rather than evidence tested in the crucible of a formal hearing where the applicant must meet the burden of proof on specified issues, which is necessary to a resolution of the serious social, economic. commercial concentration, and other public interest questions here obtaining.

In view of the foregoing, I vote for a formal evidentiary hearing on the following issues where the burden of proof is on the applicant:

(1) To determine whether and the extent to which the economic and commercial relationships, and the business structure, operations and practices, of the applicant herein will involve undue concentration of economic power in a manner contrary to the public interest in broadcasting.

(2) To determine whether and the extent to which the merger of ABC and ITT may be inconsistent with the policies set forth in the Antitrust laws.

(3) To determine, in the light of the facts disclosed, and the conclusions reached under (1) and (2) above, whether consent to the application is consistent with the Commis-

sion's policies to promote licensee responsibility, competitive opportunity and diversity in broadcasting.

(4) To determine whether and the extent to which the applicant maintains and will continue to maintain directly or through its subsidiaries or affiliates, commercial relationships with local, state, federal and other Governments, and the consequential impact on intra-corporate policies with respect to its network and station operations.

(5) To determine whether and the extent to which consent to the merger herein would place applicant in a position where it might be impelled or compelled to subordinate its broadcast activities to its overall business interests.

(6) To determine the commercial activities, including marketing and sale of various products and services carried on or manufactured or proposed to be carried on or manufactured by the applicant, particularly in the field of communications, communications equipment and apparatus, ownership, management and operation of communications systems, including the field of space and common carrier communications.

(7) To determine whether and the extent to which the commercial activities of the applicant and its marketing of goods and services will affect competition among advertisers and prospective advertisers for broadcast time and opportunity.

(8) To determine whether and the extent to which consent to the merger herein may bring about concentration of control of facilities for space transmission (either domestic or foreign) and domestic broadcast transmission in the same hands.

(9) The extent to which applicant now owns, controls or has financial interests in, or proposes to own, control or acquire financial interests in broadcast facilities in foreign countries.

(10) To determine the intra-corporate relations, policies and practices established or carried on by ITT with its subsidiaries and affiliates as they may affect the inde-

pendence of judgment by the management of such affiliates.

(11) To determine the extent to which the management of operating subsidiaries and affiliates of ITT have been permitted independent operation.

(12) To determine whether and the extent to which managements of ITT's subsidiaries and affiliates have been changed and the relation between such changes and the business policies and practices of ITT as a parent.

(13) To determine the extent of independent judgment to be accorded the operating management of the broadcasting enterprise and the extent to which its independence will be affected by economic, commercial and other business considerations of the merged corporation.

(14) To determine whether and the extent to which consent to the merger herein would enhance the ability of the applicant to provide a diversified program schedule in the public interest as alleged by the applicant.

(15) To determine whether and the extent to which consent to the merger would add to the economic stability and commercial viability of the ABC broadcasting enterprise—as alleged by the applicant—in a manner which will serve the public interest.

(16) To determine whether and the extent to which the consent to the merger herein would encourage or impel other networks and licensees to enter into similar arrangements.

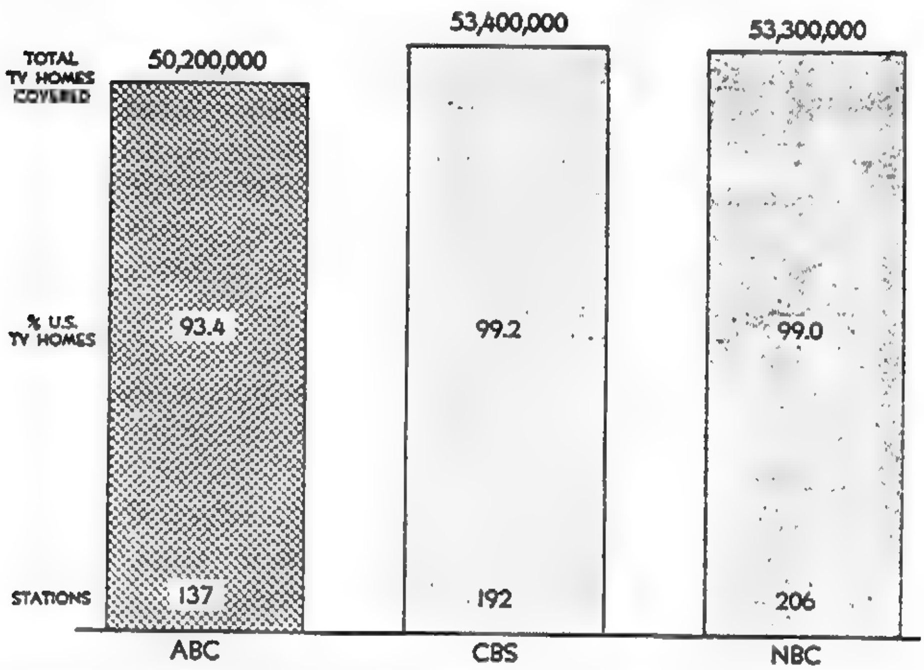
(17) To determine the competitive effect, if any, of consent to the merger herein on the development and entry of additional networks in television.

(18) To determine in the light of the evidence adduced, pursuant to the foregoing issues, whether the public interest, convenience and necessity would be served by a grant of Commission consent to the proposed merger.

CONCURRING OPINION OF COMMISSIONER KENNETH A. COX IN WHICH COMMISSIONER NICHOLAS JOHNSON JOINS

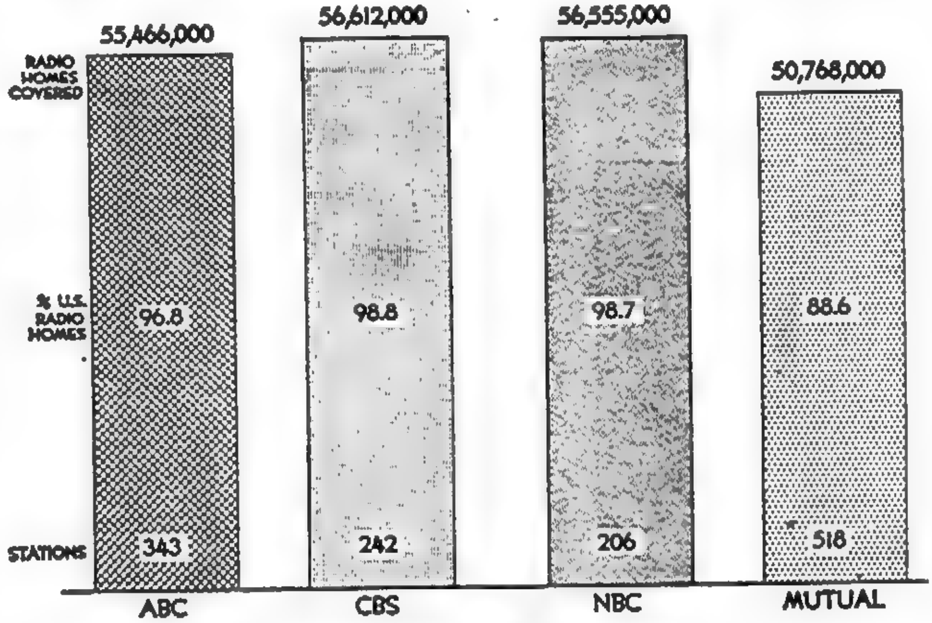
I concur in setting this matter down for an oral hearing. It poses issues of too great importance to be handled in routine fashion. However, I believe the applicants should address themselves very carefully to the issues which Commissioner Bartley has indicated he believes should be explored in a full evidentiary hearing. While the procedure adopted here is intended to expedite disposition of this matter, it should nevertheless permit exploration of these important questions in broad outline at least.

[Exhibit 30.—Comparison of Primary Affiliates—Three Television Networks]



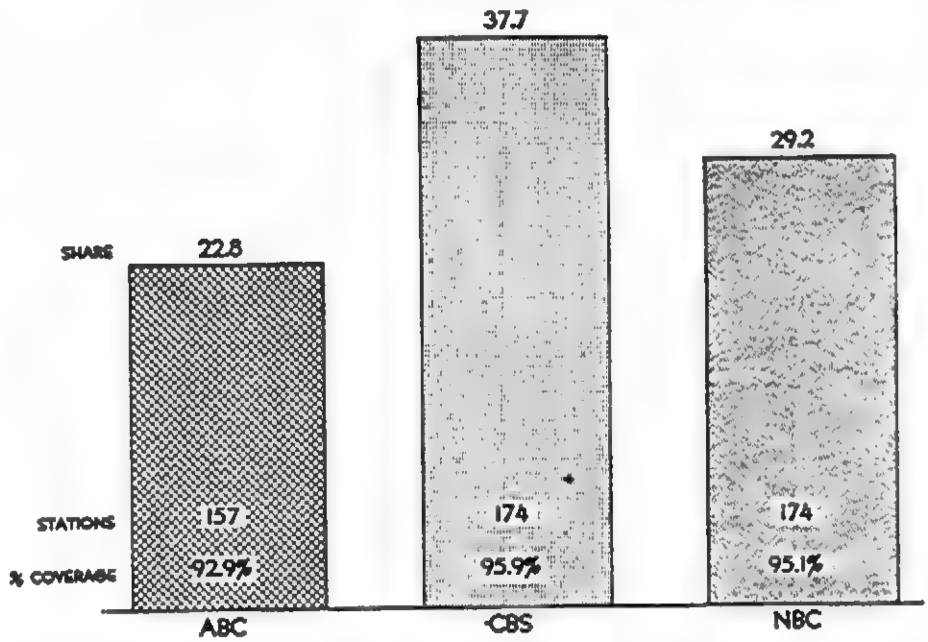
Source: U.S. TV Homes 53.8 Million, A. C. Nielsen; # Affiliates SRDS 1966.

[Exhibit 31.—Comparison of Affiliates—Four Radio Networks]



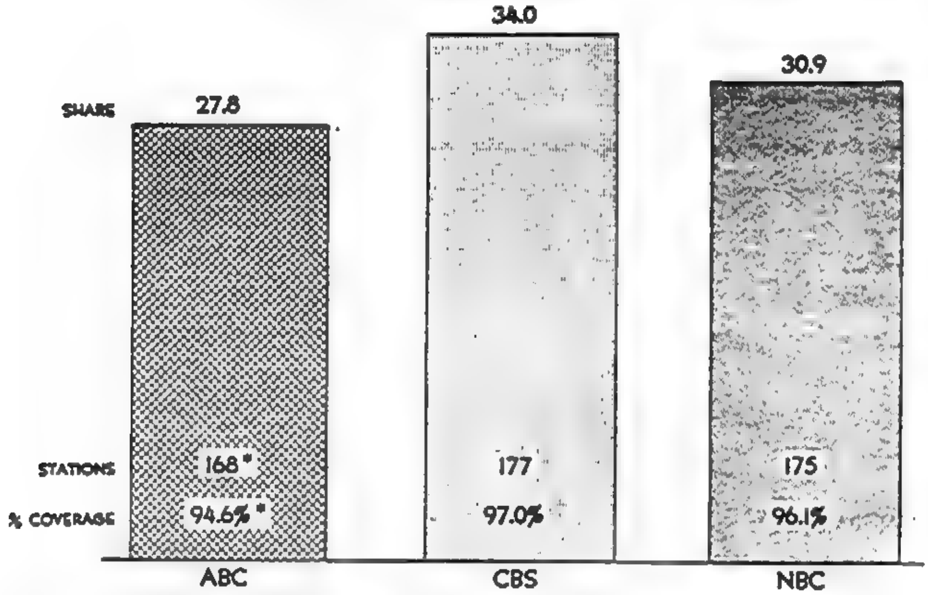
Source: RAB 57.3 Million Homes, SRDS 1966.

[Exhibit 33.—TV Network Share of Audience (Average of Daytime, News, and Prime Evening Time)]



Source: NTI, October–March each year 1962–1966, Mon.–Sun. 9:00 AM–11:00 PM.

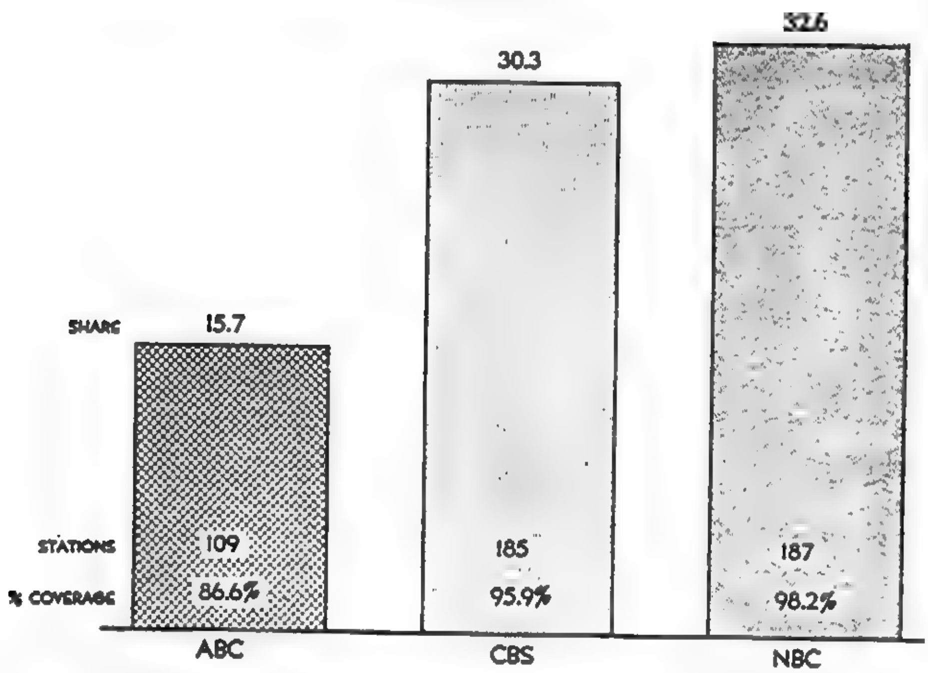
[Exhibit 34.—TV Network Share of Audience: Prime Evening Time]



Source: NTI, October–March each season, 1962–1966 Mon.–Sun. 7:30–11:00 PM.

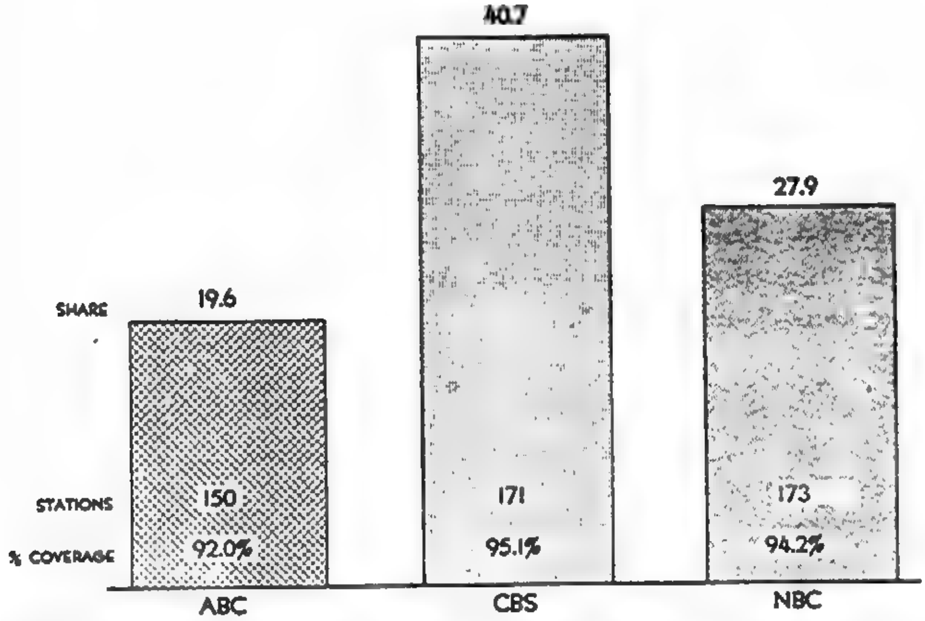
*Avg. 44 Delays; 4.2% of U.S. TV Homes.

[Exhibit 35.—Network Early Evening News Share of Audience]



Source: NTI, AVG. October–March each year 1962–1966.

[Exhibit 36.—TV Network Share of Daytime Audience (Average of 7 Days)]



Source: NTI, October–March each year 1962–1966, Mon.–Sun. 9:00 AM–5:00 PM.

[60, p. 4] [Excerpt From Department of Justice Petition for Reconsideration]

II. The Department of Justice had Good Reason for not Participating in the Earlier Stages of the Proceeding

In this section we demonstrate, as required by Rule 1.106, that the Department of Justice had good reason for not requesting the status of a party earlier and thus not participating formally in the prior proceedings of the Commission.

The Department did not seek to intervene as a party to the proceeding because it had not completed its own investigation at the time of the Commission's hearing and because prior to the Commission's decision it was not clear that such intervention was necessary to inform the Commission that the proposed merger involved the possibility of serious anticompetitive effects.

The Antitrust Division's letter of December 20, 1966, set forth an analysis which, though summary in form, we believed sufficient to demonstrate that there are important issues that

need to be considered on a reopened and expanded record. We would have preferred to complete our analysis of the complex antitrust issues raised by the proposed merger long before December 1966. But a brief review of the chronology of the Department's investigation will make apparent why that was not possible.

The Department opened its investigation within days of the announcement of the proposed merger in December 1965. It served a Civil Investigative Demand upon the parties, and was receiving information through April 1966. In March and April, the Department * * *.

*   *   *   *   *

[90] FCC 67-342
96945

BEFORE THE

FEDERAL COMMUNICATIONS COMMISSION

WASHINGTON, D.C. 20554

Docket No. 16828

In the Matter of

APPLICATIONS BY AMERICAN BROADCASTING COMPANIES, INC.
For Assignment of Licenses of Stations WABC, WABC-FM, WABC-TV, New York, N.Y.; WLS-FM, WBKB, Chicago, Ill.; KGO, KGO-FM, KGO-TV, San Francisco, Calif.; KABC, KABC-FM, KABC-TV, Los Angeles, Calif.
For Transfer of Control of Stations WLS, Chicago, Ill.; KQV and KQV-FM, Pittsburgh, Pa.; WXYZ, WXYZ-FM, WXYZ-TV, Detroit, Mich.
For Assignments and Transfer of Ancillary Radio Facilities.

FURTHER ORDER ON PETITION FOR RECONSIDERATION

BY THE COMMISSION: COMMISSIONERS LEE, LOEVINGER AND WADSWORTH ABSTAINING WITH A JOINT STATEMENT.

1. The Commission has before it for consideration: the Petition of the Department of Justice for Reconsideration of the Memorandum Opinion and Order (FCC 66-1186) issued on December 21, 1966 in this proceeding; the Opposition of ABC and ITT to the Petition for Reconsideration; the Reply by the Department to the Opposition; the material filed by the Department and the applicants pursuant to the Commission's Order on Petition for Reconsideration (FCC 67-175) issued on February 1, 1967; a petition for reconsideration and leave to

intervene filed on February 2, 1967 by the American Civil Liberties Union, Inc. (ACLU); a corrected petition of the ACLU filed on February 20, 1967; a request by Gerald Gottlieb for leave to appear as amicus curiae; oppositions of ABC and ITT to the ACLU and Gottlieb pleadings; and the entire record herein. The pertinent background and procedural posture of the proceeding are set forth in the Order of February 1, 1967 (FCC 67-165).

2. Both in the Decision of December 21, 1966 and in the Order of February 1, 1967, the Commission stressed the importance of this proceeding and its desire to secure all possible assistance and information in resolving the issues. We particularly emphasized our desire to know and consider what evidence the Department of Justice has relating to this matter, and therefore provided an opportunity for disclosure of the Department's evidence prior to ruling on its petition for reconsideration.

3. In line with our February 1, 1967 Order, we shall afford the Department the opportunity to adduce evidence on the matters specified in its filings. Such evidence will be adduced under broad issues to insure a full record (see par. 8(ii) within), but we emphasize that the specific matters at issue have been very substantially narrowed by the filings of the Department and the applicants in response to the February 1, 1967 Order. The existing record, including all of the evidence, statements and material filed pursuant to our Order of February 1, 1967 will, of course, be incorporated with the record of the further hearing. It will thus not be necessary for any of the parties to repeat any presentation previously made to the Commission.

4. Counsel for the Broadcast Bureau will also participate to insure that the record, as supplemented, is complete. At this posture, we think it appropriate that the Department of Justice and Bureau counsel proceed initially with the introduction of evidence on the issues. After such evidence has been adduced, the burden will be upon the applicants to proceed; the ultimate burden of proof on the applications remains, of course, on the applicants. The Department and Bureau counsel will be afforded appropriate opportunity for rebuttal.

5. The public interest requires that the supplemental proceeding be conducted as expeditiously as possible without prejudice to the compilation of a full record. This important matter has been before us for a considerable period of time and has been the subject of a final decision. The present posture of this proceeding is highly unsettling and affects planning in the vital national network area of the broadcasting industry. Considering the history of this matter before the Commission, the policy implications of the issues, and, particularly, the public interest in a prompt settlement of the present uncertainty, we think that expedition is required. Accordingly, the Commission finds that due and timely execution of its functions in this matter imperatively and unavoidably requires that the Examiner certify the record as supplemented, upon its closing, immediately to the Commission for final decision. Pursuant to the February 1 Order, the Department and the applicants have already exchanged and filed with the Commission copies of the exhibits and documentary evidence upon which they intend to rely and have identified, and summarized the testimony of, witnesses they are prepared to call. Thus, no extensive prehearing procedure or further period of preparation for the supplementary hearing is necessary. We also direct the Examiner (i) to exclude irrelevant, immaterial or unduly repetitious evidence, and (ii) to limit examination or cross-examination of witnesses, where he deems that the matter is carried beyond any useful purpose. Expedition also requires that the parties adhere to the prescribed time schedules for the conduct of the hearing and the filing of pleadings. These instructions will facilitate expedition in the hearing process, without in any way derogating from the full record we seek.

6. We will by this order schedule a pre-hearing conference on March 23, 1967, and the hearing will commence on March 27, 1967, with a daily transcript delivered to each Commissioner. The parties may file proposed findings of fact ond conclusions of law within five business days after the date that the record is closed. Oral argument will be held 15 days (or as soon thereafter as possible) after the date the record is closed. Thereafter, the Commission will promptly issue a decision determin-

ing whether the Memorandum Opinion and Order of December 21, 1966 should be affirmed, modified or set aside. Pending that determination we will stay the effectiveness of the Memorandum Opinion and Order.

7. The ACLU petition for reconsideration and leave to intervene will be denied. This petition, first filed on February 2, 1967, is untimely in seeking reconsideration of the December 21, 1966 decision, does not show good reason for failure to participate at an earlier stage of the proceedings, and is insufficient in other respects. We have not been shown that participation by the ACLU as a party would serve any useful purpose. We note that the only witness proposed by the ACLU, Mr. Sidney W. Dean, is being offered by the Department of Justice and that the arguments of the ACLU are not materially different from those of the Department. However, we invite the ACLU to tender a statement as amicus curiae within ten days of the close of the supplemented record, including in such statement a showing how ACLU's participation as amicus curiae would serve a useful purpose. We will then rule whether such participation by ACLU will be permitted.[1]

8. Accordingly, the COMMISSION ORDERS this 16th day of March, 1967,

(i) That the petition of the Department of Justice for stay of the Commission's Memorandum Opinion and Order of December 21, 1966, in Docket No. 16828 IS GRANTED and the effectiveness of that Order IS STAYED pending further order of the Commission.

(ii) That the record in Docket No. 16828 IS REOPENED for purpose of adducing supplementary evidence[2] and the matter IS DESIGNATED FOR HEARING before Chief Hearing Examiner James D. Cunningham, to commence at 9:00 a.m., March 27, 1967, in Room 7134, New Post Office Bldg., Washington, D.C., upon the following issues:

[1] We deny the request of Mr. Gerald Gottlieb to participate as amicus curiae, since such participation would not serve any useful purpose.

[2] For ease in studying the record, all documentary evidence should be given an identification consistent with the identification sequence applied to evidence previously submitted.

(1) To determine the benefits to the public interest from the proposed merger;

(2) To determine the detriments to the public interest from the proposed merger; and

(3) To determine, in light of the evidence adduced on the above issues and the entire record, whether the public interest will be served by a grant of the applications.

(iii) That the record heretofore compiled in this proceeding SHALL BE INCORPORATED in the supplementary hearing.

(iv) That the Commission's Broadcast Bureau IS MADE A PARTY to the proceeding.

(v) That a prehearing conference will be held on March 23, 1967.

(vi) That the Department of Justice and Bureau counsel shall proceed initially with the introduction of evidence on the issues; that the burden of proceeding with the introduction of evidence on the issues shall then be upon the applicants, with the Department and Bureau counsel thereafter given appropriate opportunity for rebuttal; and that the ultimate burden of proof on the applications shall be upon the applicants.

(vii) That upon the closing of the supplemented record it shall be certified immediately to the Commission for a final decision affirming, modifying or setting aside the Memorandum Opinion and Order of December 21, 1966.

(viii) That the parties shall file proposed findings of fact and conclusions of law within five business days after the date the supplemented record is closed and that oral argument thereon shall be specified by further order of the Commission, at a time 15 days after the date the record is closed, or as soon thereafter as possible.

(ix) That the petitions of the American Civil Liberties Union, Inc. for reconsideration and leave to intervene and the request of Gerald Gottleib for leave to appear as amicus curiae ARE DENIED, provided however that the American Civil Liberties Union, Inc. may tender a statement as amicus curiae within ten days after the closing of the sup-

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plemented record, with the ruling on acceptance of such tender to be made at a later date.

FEDERAL COMMUNICATIONS COMMISSION,
BEN F. WAPLE, *Secretary*.

Released: March 16, 1967.
Mailed March 17, 1967.

SEPARATE STATEMENT OF COMMISSIONERS LEE, LOEVINGER AND WADSWORTH

We do not believe that the showing which has been made warrants a further hearing, but since a majority of the Commission has decided to hold a further hearing we will abstain from opposition and give appropriate consideration to any further evidence adduced.

[Excerpt From Applicants' Exhibit AR 41]

[840] ATTACHMENT 3

The table below shows the number of hours of programming made available to affiliates for the 1966–67 session. These data reflect programs actually telecast to date and projections for the balance of the season. The totals have been separated by prime time and all other hours for each category of News, Sports, Public Affairs and Entertainment.

Programs available to affiliates, number of hours per year, 1966–67

	7:30-11:00	All other times
News:		
ABC	10½	229½
CBS	11½	358
NBC	11½	288
Sports:		
ABC	6	259½
CBS	21	262
NBC	13½	196½
Public affairs:		
ABC	51	92½
CBS	51	222½
NBC	14½	666½
Entertainment:		
ABC	1,206	1,928
CBS	1,177	2,086½
NBC	1,234	2,210
Total:		
ABC	1,273½	2,509½
CBS	1,260½	2,929
NBC	1,273½	3,361

The net time and talent billings reported by BAR for the first two months of 1967 are attached (page 2). A 12 months' projection for 1967, showing the areas of major revenue advantage for CBS and NBC, is also attached (page 3). It will be noted that Monday-Sunday, 7:30–11:00 PM, ABC is fairly competitive but is well below the other networks in news billings and well below CBS in Monday-Friday daytime. It will also be noted that while CBS is well ahead of NBC in the Monday-Friday daytime area, NBC makes this up in the Today Show and the Tonight Show.

[S41] *BAR Network TV dollar revenue estimates, Jan–Feb 1967*

	Amount (thousands)	Share of revenue (percent)
Monday-Friday:		
Sign-on, 10:00 a.m.:		
ABC		
CBS	$1,127.4	32.8
NBC	2,325.5	[1] 67.2
Total	3,452.9	100.0
Monday-Friday:		
10:00 a.m.–6:00 p.m.:		
ABC	13,019.1	22.1
CBS	30,374.6	51.4
NBC	15,571.9	26.5
Total	58,965.6	100.0
Monday-Saturday:		
6:00 p.m.–7:30 p.m.:		
ABC	2,531.3	18.4
CBS	5,898.7	42.4
NBC	5,406.2	39.2
Total	13,836.2	100.0
Monday-Sunday:		
7:30 p.m.–11 00 p.m.:		
ABC	48,413.3	31.0
CBS	53,826.2	34.5
NBC	53,627.1	34.5
Total	155,866.6	100.0
Monday-Sunday:		
11:00 p.m.–sign-off:		
ABC	511.4	13.3
CBS	426.0	11.0
NBC	3,070.6	[2] 75.7
Total	4,008.0	100.0

[1] Today Show.
[2] Tonight Show.
Source: BAR.

[842] *Major revenue advantages for CBS & NBC*[1]

ABC vs CBS:	
Weekday Daytime	$99,048,000
Early Evening News	19,158,000
Total	118,206,000
ABC vs NBC:	
Weekday Daytime	14,970,000
Early Evening News	16,554,000
TODAY & TONIGHT	27,612,000
Total	59,136,000

[1] Based on actual BAR net time and talent differences, Jan.–Feb. 1967 projected to 12 months.

ATTACHMENT 4

[843] Attached (page 2) is a comparison of Nielsen National and MNA (competitive market) ratings for prime time hours of viewing and all other hours from sign-on to sign-off (excluding 7:30 to 11:00 PM). Each of the day parts has been broken out to reflect News, Sports, Public Affairs and Entertainment.

A comparison of Nielsen and MNA's performance has been included. Additionally, in the News area, there is broken out the three early evening News shows (JENNINGS, Cronkite, Huntley-Brinkley).

Inasmuch as Nielsen does not combine the various feeds of the JENNINGS program, JENNINGS ratings are not shown for the MNA area. Also, inasmuch as Nielsen reports MNA ratings by 15 minute segments, there is no break out of the 5 minute news segments telecast in the daytime.

The relationship of the 3 networks in the MNA versus the Nielsen in the area of prime time entertainment programming and Monday through Friday 10:00 AM to 5:00 PM daytime programming is to be noted. ABC is tied with NBC and 9% below CBS in the MNA between 7:30 to 11:00 PM, but ABC falls 9% below NBC and 16% below CBS in the National Nielsen.

Similarly, in Monday through Friday daytime, ABC is 13% below NBC and 42% below CBS in the MNA. The disadvantage, however, is considerably greater in the National where ABC is 34% below NBC and 52% below CBS level.

[844] *Comparative popularity of programming, Nielsen Feb I & II '67 periods*

	Prime time ratings		All other times ratings	
	NTI	MNA	NTI	MNA
News:				
(A) Early Evening:				
ABC	....	....	7.2	(1)
CBS	....	....	17.1	13.3
NBC	....	....	18.3	15.3
(B) Other News:				
ABC	....	....	4.3	9.5
CBS	....	....	3.0	12.9
NBC	....	....	3.4	14.4
Sports:				
ABC	None	....	10.0	10.1
CBS	None	....	6.6	7.5
NBC	None	....	6.2	7.7
Public Affairs:				
ABC	8.8	8.3	6.4	8.3
CBS	12.6	13.2	6.5	8.3
NBC	11.7	11.6	9.0	8.2
Entertainment:			Mon.-Fri., 10 AM-5 PM	
ABC	18.4	18.1	5.3	6.1
CBS	21.8	20.0	11.0	10.5
NBC	20.1	18.1	8.0	7.0
			All Other Hours	
			6.8	7.1
			11.1	10.4
			7.5	7.6

1 Not available.

Source: Nielsen, Four Weeks Ending February 19, 1967.

* * * * *

[Excerpts From Exhibit AR 1]

PRINCIPAL U.S. SUPPLIERS OF GOODS AND SERVICES TO ITT AND SUBSIDIARIES, CALENDAR YEAR 1965

[134] Purchasing functions and activities in the ITT System are completely decentralized.

The Purchasing Manager in each System operating company or plant has full responsibility for achieving the efficient procurement and delivery of the purchased parts, materials and services required by his particular organization. This includes selection of sources of supply, evaluation of quality, negotiation of supply agreements and contract terms, and other related procurement functions.

Since ITT is a multi-profit center organization, each Purchasing Manager has a positive incentive to purchase all nec-

essary components, materials and services for his unit at the lowest total cost available in the market.

Each operating subsidiary's purchasing orders are placed locally, and its purchasing records are kept locally.

This decentralized method of purchasing makes it impractical to attempt to utilize original purchasing or accounting records to compile the requested list of the 300 principal U.S. suppliers of goods and services to the ITT System.

Consequently, the attached list has been prepared from information supplied by each of the operating subsidiaries listing their principal U.S. suppliers for the calendar year 1965 (including U.S. vendors of more than $25,000 to ITT companies located in North America and to ITT Export; and U.S. vendors of more than $100,000 to ITT subsidiaries located abroad).

The descriptions of products and services purchased from each vendor are generalized summaries.

[135] Similar detailed information with respect to purchases during the present calendar year of 1966 is, of course, not yet available. However, based on information presently available at ITT Headquarters it is estimated, as requested in Mr. Gordon's letter of November 17, 1966, that the principal suppliers of goods and services during 1966 will be substantially the same concerns as in 1965 with the possible exception of vendors and subcontractors of specialized equipment or services required for completion of special government contract work, construction contracts, and similar projects of a nonrecurring nature.

* * * * *

[Exhibit AR 2]

[136] NOTES TAKEN AT SPECIAL MEETING BOARD ON 12/7/65

(1) SBS reviewed entire deal

Approached about 6 months ago—J. Sai of Fidelity that ITT be interest merger.

1⅓ for each ABC offered at that time—83 but we felt not enough.

further discussions time to time.

in June GE approach, met Borach, Pres. GE—but Borach felt some GE anti-trust—they never got back but understand approached D of J (on other deal at least—Storer) turned down.

We came to conclusion that future co. be better enhanced by joining a larger complex. So negotiated more forcibly when HG came back—we asked for 100 but got him from 83 to 85.5 per share. . . . feel this as far as they would go.

When news potential deal came out, H. Kahn suggest talk Litton—met HK & Pres. of Litton—next day they offered $80 in convertible pfd., etc.

ITT has value, growth and fine mgmt.

—After price, discussed mgmt. & preservation of organization; so talked mgmt K's & preservation of all benefits—HG feel we have best sales department—present Bd. plus addition 1 or 2 from ITT.

LHG & SBS & possibly 10 to 15 other executives given K's. [137] They agree continue all employee benefits; that we can give out without ITT OK the options presently available—& if necess, give more.

ITT earnings & growth discussed by SBS if merger thru, then ITT earnings in US next yr. greater than abroad

ITT operations discussed

Reason Why Combination Good

Automation our accounting department—they are fully automated & on 50–51 Street & Park

Engr.—color & modernization—great expense & they manufacture 3quip and lot more know how—

CATV—they mfr. CATV equip & have 1 system

Financial—they have earnings abroad & foreign tax credit problem; decrease in combined tax rate if more ITT earnings in US

Foreign—they are in & we feel future TV in foreign

Educational Field—book co's want hi multiple—& our stock low multiple—(with our lt'd shares & net w. they end up own us)

[138] *Better image*—If ABC in eyes of sponsors is part of a bigger complex would be very good.

LHG talked—part larger company—stabilize co.

SBS: Reviewed the numbers sheet—

2 outside sources—Mr. Flery of Met and H. Kahn that pfd could sell at 20 to 25% premium—

GJ—quaere on ITT being conglomerate i.e. Avis ins.

co. etc. SBS feel their leaning this way disappear with merger ABC because size ABC merger—

Quaere on talent at ITT & whether spin off any of their acquisitions. SBS—they want acquire mgmt with acquisitions.

LHG: Told HG must pledge mgmt continue operate ABC re: FCC & HG said he and Bd make pledge to FCC. HG suggest 1 or 2 his on ABC and 4 of ABC on ITT.

LHG that talked lawyers that for 5 years this mgmt can't be changed

ECG—quaere price—discussion price—

AC —quaere FCC approval probability.

LHG—Reviewed conversations Beckman with FCC members

EHE—mentioned J. McKenna opinion on this importance K's with Key Employees—

[139]

*fine print—on pfd—Met people look at this—$50 liquidation figure?

RLH—discuss HG tender if not go ahead

Geo. Jenkins—directors liability if "Bd" not go back.

TCB opinion on this

LHG & SBS feel got best price possible & lose deal if try to get more—

RLH feels little push too much will destroy deal

*first in preamble make record of what transpired to date—SBS report

Motion—vote to do, subject to approval of the stockholders (& recommend to stockholders)

1—ECG

2—J. Hausman

Unan 6:45

[140] *Other meeting at 7:05*

After meeting —LHG—after talk to Geneen

(1) floor of 2.40—be double what they declare tomorrow

(2) Geneen want LHG to be Ch. & Pres of ABC

also at meeting:
proposed memo and press release reviewed

[Exhibit AR 3]

[141] AMERICAN BROADCASTING COMPANIES, INC., CONSOLIDATED

Estimated cash flow for the years 1966 through 1970

[Stated in thousands]

	1966	1967	1968	1969	1970	Five Years
SOURCES						
Net earnings from operations	$17,900	$21,000	$24,000	$27,000	$31,000	$120,900
Depreciation:						
Broadcasting	5,100	9,000	13,000	15,000	15,000	57,100
Theatres and other	3,700	3,500	4,400	4,500	5,100	21,200
Capital gain proceeds	2,500	2,000	150	150	150	4,950
Common stock sold under options	900					900
Other sources and uses, net	600	1,700	500	500	500	3,800
Total sources	30,700	37,200	42,050	47,150	51,750	208,850
USES						
Property and equipment:						
Headquarters Administration Building	21,800					21,800
Broadcasting:						
Committed	17,840	13,771	1,655			33,266
Pending		22,648	36,085	34,267	20,470	113,470
New theatres	5,300	7,500	3,500	3,500	3,500	23,300
Ordinary replacements in theatres and all other operations	3,920	1,400	1,400	1,400	1,400	9,520
Marine World	340	2,300	2,360			5,000
Total, property and equipment	49,200	47,619	45,000	39,167	25,370	206,356
Payments on long term debt:						
Metropolitan Life Insurance Co. and 4 banks	2,500	6,664	8,050	8,052	8,055	33,321
Other notes and mortgages	530	626	610	692	505	2,963
Marine World loan			200	400	400	1,000
Total debt payments	3,030	7,290	8,860	9,144	8,960	37,284
Cash dividends	7,500	7,500	7,500	7,500	7,500	37,500
Broadcast program rights:						
Payments based on existing commitments, net of amortization	30,500	1,800	(10,500)	(10,000)	(14,400)	(2,600)
Estimated new commitments required		10,000	10,000	10,000	10,000	40,000
Investments in motion picture productions	1,700	8,300	10,000	10,000		30,000
Investment payments required under existing contracts	470	1,400	640	640	630	3,780
Accelerated Federal income tax		8,700				8,700
Incr. of receivables, mdse and ppd. exp. in excess of incr. in A/P	(300)	3,000	3,000	3,000	3,000	11,700
Total uses	92,100	95,609	74,500	69,451	41,060	372,720

Estimated cash flow for the years 1966 through 1970—Continued

	1966	1967	1968	1969	1970	Five Years
Cash increase or (decrease) from operations	(61,400)	(58,409)	(32,450)	(22,301)	10,690	(163,870)
Borrowings:						
Parent company	34,000	2,500	--------	--------	--------	36,500
Marine World	--------	2,500	2,500	--------	--------	5,000
Total cash increase (decrease)	(27,400)	(53,409)	(29,950)	(22,301)	10,690	(122,370)
Cash and securities at beginning	47,259	19,859	(33,550)	(63,500)	(85,801)	47,259
Cash and securities at end	$19,859*	($33,550)*	($63,500)*	($85,801)*	($75,111)	*($75,111)

* Exclusive of normal requirements for cash working funds of $20,000,000 which must be provided for.

[142] AMERICAN BROADCASTING COMPANIES, INC., CONSOLIDATED

ESTIMATED CASH FLOW—EXPLANATORY COMMENTS

Amounts shown for the year 1966 are actual.

Net earnings from operations—have been estimated at a rate of growth of approximately 15% per year. Such growth is premised on the ability to obtain the operating facilities and programs necessary to improve our position and compete effectively with others in the industry.

Depreciation—represents estimated calculations based on the assumption that the pending property, and equipment expansion program will be realized.

Capital gain proceeds—represent the amount of cash flow from the sale of properties or other investments, which transactions are not included in earnings from operations. Since such transactions are not predictable, the amount shown represents the cash expected from previously completed transactions.

Common stock sold under options—represents the amount received and no amounts have been estimated for 1967 and subsequent years because if the merger is consummated, ABC will not receive the proceeds, and if the merger is not consummated, it is likely that the amount to be received on options exercised would not be significant.

Other sources and uses, net—represents for the most part current charges not requiring cash outlay during the period,

such as [143] expenses accrued which are payable over a long term or the annual amortization charge of miscellaneous assets paid for in prior years and carried as deferred charges.

Property and equipment—

Broadcast-committed—represents those projects which are already in process or in various stages of being contracted for.

Broadcast-pending—represents the estimated cost of those projects which will be submitted to the Board for approval and comprise the cost of equipment and construction necessary to complete the conversion to full color television capability and modernization of the engineering and production facilities.

Theatres (New)—represent the estimated cost for equipping new theatres, the amount shown in 1967 being for projects previously approved and committed for under lease arrangements or in final stages of commitment, whereas the amount shown in years subsequent to 1967 represents a projection of expenditures on the basis of a curtailed theatre expansion program.

Ordinary replacements in existing theatres and all other operations—represents an estimate based on experience of expenditures which will be required in order to keep the property and equipment of all non-broadcast operations in a satisfactory operating condition.

[144]

Marine World—represents the cost estimated under commitments to complete the construction of the marine exhibit and oceanarium center in Redwood City, California. It is estimated that outside long term financing arranged for will provide all or most of the funds necessary for this project.

Payments on long term debt—represent the actual payments required under loan agreements and various mortgage notes and with respect to Marine World estimated repayment requirements under financing arrangements to be finalized.

Cash dividends—are based on continuation of the present dividend rate on the present number of shares outstanding.

Broadcast program rights—

Payments based on existing commitments—represents the payments required to be made under existing contracts for rights to exhibit feature films, for which substantial payment must be made in advance of their availability and scheduled use, less the estimated annual amortization of the cost.

Estimated new commitments required—represents an estimate of the annual expenditures required to replenish the inventory of films being used and to stay competitive in obtaining these program exhibition rights as films become available.

[145] *Investments in motion picture productions*—represent the estimated expenditures to be incurred in developing an inventory of rights to exhibit new motion pictures now being or to be produced in participation with film producers.

Investment payments required under existing contracts—represents the schedule contractual payments required to be made in future years for investments made or committed for before the end of 1966.

Accelerated federal income tax—represents the federal income tax to be paid in excess of income tax provision for 1967 caused by the requirement for earlier payment of 1967 estimated federal income tax.

Increase of receivables and other current assets, net—represents the continuing buildup of working capital required as the sales volume increases.

Borrowings—represent, for the parent company, the actual take-downs under the loan agreements with the insurance company and the banks, and for Marine World, the anticipated borrowings under financing being arranged for construction of the project.

[146] INTERDEPARTMENT CORRESPONDENCE

To Mr. Martin Brown
From George Sebastian
Date January 20, 1967
Subject Estimated Cash Flow of Approved Engineering RCF's

This report supereedes my previous CASH FLOW ESTIMATE dated September 23, 1966 and the augmented reports of November 11th and December 13, 1966.

NOTE: This report again *does not contain* any anticipated Pending Projects. A separate report containing these anticipated project expenditures is currently under preparation.

Summary

	1967 1st Qtr	1967 2nd Qtr	1967 3rd Qtr	1967 4th Qtr
New York	1,781,000	1,660,000	1,616,000	1,224,000
Hollywood	1,835,000	1,373,000	1,531,000	960,000
Chicago	161,000	70,000		
Detroit	402,000	104,000		
San Francisco	247,000			
Pittsburgh	14,000	12,000		
Quarterly totals	4,440,000	3,219,000	3,147,000	2,184,000
Yearly total	12,990,000			

G. S.
GEORGE SEBASTIAN

GS/lmf

cc: Messrs. Barnathan, Beaudin, Conley, Graessle, Neal, Owen, Pointer, Shaker, Worster, Zellner, Miss M. Michaud.

[147] *ABC Office: TV & Radio—New York; Date, Jan 20, 1967*

RCF—	Description	Estimated cash flow: 1967, 1st quarter	1967, 2nd quarter	1967, 3rd quarter	1967, 4th quarter
NY 1007	Film slide Vidicon film chain in Washington	3,000			
NY 1009	New main transmitting antenna system for WABC TV at Empire State Building	181,000	5,000		
NY 1026	Four color cameras & associated equipment for ABC mobile unit	7,800			
NY 1030	Additional sound recorder for kinescope operations	1,000	1,000		
NY 1038	1 Ampex VR-2000 recorder for NY, transfer of TR-22 recorder from NY to Detroit. Also color test equipment & spare modules for NY & HD	16,000			
NY 1040	Technical facilities for Washington News Bureau expansion	5,000			
NY 1041	5 RCA TK-42 live color cameras		155,000		
NY 1044	TV-11 sync interlock system	5,500			
NY 1066	Customade turntable sound effects console with electronic equipment	12,300			
NY 1073	2 North American Phillips Plumbicon cameras	20,000	21,000		

[147] *ABC Office: TV & Radio—New York; Date, Jan 20, 1967*—Continued

RCF—	Description	Estimated cash flow 1967, 1st quarter	1967, 2nd quarter	1967, 3rd quarter	1967, 4th quarter
NY 1076	22 Beckman & Whitley single system newsfilm cameras	---------	75,000	185,000	---------
NY 1084	Continuous motion projector & Stabilized Vidicon camera for TV-11	400	---------	---------	---------
NY 1089	Provide 2 complete color mobile units with additional vtr to operate with existing color mobile units	275,000	78,000	---------	---------
NY 1101	2 high band color modernization kits for TR-22 tape recorders in NY & HD	---------	---------	20,800	---------
[148]					
NY 1107	Misc. technical equipment for Union City Network film playback center	700	---------	---------	---------
NY 1113	Technical equipment for WABC Radio at 1330 Sixth Avenue	---------	---------	---------	---------
NY 1123	Automatic free switching of color circuits to intersplice film at NY & HD origination centers	400	---------	30,000	25,000
NY 1124	Projection room facilities for Screening & Conference Rooms at 1330 Sixth Avenue	600	---------	---------	---------
NY 1125	TV Master Antenna & distribution system for new Administration Bldg. at 1330, & Screening Control Room at 66th St. Operation Center	16,000	---------	---------	---------
NY 1131	Prepare site & construction of 1-story building at Lodi for TV Field Shop & Mobile unit Garage	8,800	---------	---------	---------
NY 1133	2-story bldg. at 43 W 66 St for TV Maintenance Eng. Lab & Tech. Assembly Installation Group	11,000	---------	---------	---------
NY 1136	Video monitoring equipment for TV-9 film studio	600	---------	---------	---------
NY 1146	Provide new TV studio at 435 West 53rd St.	16,800	---------	---------	---------
NY 1152	3 audio consoles for Colonial Theatre, TV-2 & optional use	5,000	---------	---------	---------
NY 1156	Editing equipment for 2 film editors in WABC-TV News	---------	---------	---------	---------
NY 1162	Provide TV-1 with interim live color facility.	41,900	89,000	---------	---------
NY 1190	1 Moviola editing machine with accessories for TV News Dept	3,400	---------	---------	---------
[149]					
NY 1197	2 Marconi color Plumbicon cameras with accessories	---------	85,000	123,200	---------
NY 1199	Spare parts for G.E. film cameras at Union Union City studio	1,700	---------	---------	---------
NY 1209	Add to existing communications system for WABC TV & Network newsfilm crews	100	---------	---------	---------
NY 1211	Measuring equipment and shop tools for Systems Maintenance & Assembly Groups	2,000	1,000	---------	---------
NY 1212	3 colorized slow-motion/stopmotion video recorders, 1 for HD and 2 for NY	86,000	---------	240,000	---------
NY 1221	2 color film chains with film & slide projectors.	55,000	5,000	---------	---------
NY 1223	1 large picture head kit for 16mm Moviola editing machine in Film Services	1,000	---------	---------	---------
NY 1224	Color transmission test equipment for color TV Operations	3,200	---------	---------	---------

[147] *ABC Office: TV & Radio—New York; Date, Jan 20, 1967*—Continued

RCF—	Description	Estimated cash flow			
		1967, 1st quarter	1967, 2nd quarter	1967, 3rd quarter	1967, 4th quarter
NY 1229	5 vertical aperture compensators	6,000	....	....	....
NY 1230	2 complete 4-V color film islands for WABC-TV	12,100	3,500	....	....
NY 1231	2 Westel recording cameras & recording playback units for News Dept. (*Future of this project questionable*)	....	....	....	....
NY 1233	Equipment to distribute 3.58 MC color subcarrier reference signal to studio areas & videotape machines	....	....	....	....
NY 1235	Precision TV sync control unit & color phase lock system for TV Engineering	....	....	....	....
NY 1236	1 Divcon for News Dept	....	50,000	....	....
[150]					
NY 1237	2 16mm Jan projectors and 1 dubber for New Dept. Jennings Show	900	....	....	....
NY 1243	2 live color Plumbicon cameras & down payment on 33 cameras	7,600	....	....	....
NY 1245	Replace 3 kinescope camera systems	53,200	5,000	....	....
NY 1248	Colorize 2 VTR's & 2 control rooms at WEKB for NCAA coverage	500	500	....	....
NY 1262	Led masking correction amplifier for Norelco cameras	....	2,700	....	....
NY 1263	Move News Dept VHF base station from Empire State Bldg. to 1330 Sixth Ave	500	....	....	....
NY 1264	Derion shelving, hydraulic lift, & special effects cabinet for TV-16	3,000	....	....	....
NY 1265	Power washing equipment for Field Dept. vehicles	1,200	....	....	....
NY 1276	Camera lenses for TV-16	500	....	....	....
NY 1279	Color chroma-key for Colonial Theatre	1,300	....	....	....
NY 1282	G.E. light & color meters for TV Operations.	700	....	....	....
NY 1285	Communications equipment for Washington News Bureau	17,600	6,000	....	....
NY 1287	Color cameras & equipment for NY, Chicago, & Washington	100,000	170,000	....	....
NY 1291	Fall-out shelter & emergency generator at WABC, Lodi	39,000	....	....	....
NY 1293	Studio transmitter link between 1330, & Lodi, WABC, AM	2,500	....	....	....
[151]					
NY 1297	Additional mag-sound double system facility for Programming Dept. Screening Room at 1330, 37th Floor	2,500	....	....	....
NY 1302	4 compensators for 2 Ampex VTR's in NY & HD	....	8,200	....	....
NY 1304	4 electric carts for field remote cameras in TV Eng	7,000	....	....	....
NY 1306	Mikes for field remote coverage	600	....	....	....
NY 1309	Color camera cable & connectors	25,000	15,000	....	....
NY 1310	20 new video cable runs from TV Master Control to Telco Room	6,000	41,000	....	....
NY 1311	2 Gates portable TV Audio Consoles for 1968 Olympics & Conventions	....	45,000	46,000	....
NY 1313	New audio facilities for WABC Radio Network, 1926 Broadway	140,000	140,000	300,000	74,000

[147] *ABC Office: TV & Radio—New York; Date, Jan 20, 1967*—Continued

RCF—	Description	Estimated cash flow			
		1967, 1st quarter	1967, 2nd quarter	1967, 3rd quarter	1967, 4th quarter
NY 1314	Carl Heitz kinoptic lens & accessories for Paul Wilson TV News	500			
NY 1318	Color lock capability & automatic changeover protection of sync generators at 66th St. plant	8,000	7,000		
NY 1320	Screening & editing equipment for ABC-TV News, Special Projects Dept	15,700	3,000		
NY 1321	Engineering study by Ampex to develop portable lightweight color camera				
NY 1322	Spello spacecraft models for TV Production, News Dept	12,700			
[152] NY 1323	Audio equipment for 8 ABC foreign & 1 domestic Radio News bureaus	6,000			
NY 1324	Film editing & screen equipment for TV News Depts in NY, LA, Chicago, Atla. & Miami	6,500			
NY 1326	Support equipment for color camera in TV Field Operations	3,000			
NY 1327	Update facilities of KQV, WXYZ, KGO, KABC, & WABC-FM stations			45,000	45,000
NY 1328	Install engineering & production facilities to colorize Studio TV-A at 7 W. 66	280,000	280,000	100,000	100,000
NY 1334	Mikes & accessories to service studios for TV operations	3,000			
NY 1335	GKM TV cable reels for HD & NY color camera cables	17,400			
NY 1336	Galvanized chain link fence for Lodi Field Shop in TV Engineering	3,000			
NY 1338	Zoomar hardware & carrying cases for TK-41 color cameras TV Network Engineering	4,700			
NY 1339	Bell & Howell filmo-sound projector & 1 lens for TV Programming	500			
NY 1342	Equipment for colorizing all present monochrome pulse generators in NY field & studio		16,000	16,000	
NY 1343	Color TV receiver for Ed Bleier in Press Information Conference Room at 1330, 29th floor	500			
NY 1344	Portable 16mm color film camera system for TV Engineering Network Programming		100,000	60,000	
[153] NY 1347	8 Press hand-held color cameras for Winter Olympics, Conventions & NCAA	88,000			380,000
NY 1348	RF communications equipment Radio & TV News Depts at Washington News Bureau		3,500		
NY 1350	2 Nagra tape recorders for Washington News Bureau Radio News for election coverage	3,000			
NY 1352	Equipment for Radio News Dept election requirements	200			
NY 1353	Test equipment for color Broadcasting in TV Eng	18,000	7,000		
NY 1354	1 video disc slow-motion/stop-motion recorder for TV Sports broadcasts	1,400			

[147] *ABC Office: TV & Radio—New York; Date, Jan 20, 1967*—Continued

RCF—	Description	Estimated cash flow: 1967, 1st quarter	1967, 2nd quarter	1967, 3rd quarter	1967, 4th quarter
NY 1355	Motion picture equipment for ABC-TV News Bureaus in Washington, LA, Atla. & Saigon	4,100	39,000	39,000	....
NY 1357	Motion picture camera equipment for TV News Dept film crews	1,100	1,000	....	....
NY 1359	Shipping cases for TV Engineering TV Camera equipment	3,200	....	....	....
NY 1362	Audio equipment for Network Pool Committee for LBJ ranch broadcasts at KONO, Austin	....	....	....	....
NY 1363	Radio communications equipment for use between Local-Network TV News Depts. and Messenger Service Company	....	11,000	....	....
NY 1364	Provide new interim control, TV-4 to replace TV-5	18,000	40,000	....	....
NY 1365	26 Uher portable tape recorders for AM Eng. Overseas News Bureaus	....	....	....	....
[154]					
NY 1368	Radio communications equipment for ABC News Chicago Bureau	....	10,000	10,900	....
NY 1369	New interim program assembly Control Room to be called TV-6	5,000	115,000	400,000	100,000
NY 1371	Portable lighting equipment for NEA TV pickups in TV Operations	8,200	....	....	....
NY 1377	1 RCA color film camera, & 1 16mm projector for Technical operations	80,000	5,600	....	....
NY 1382	Editing & screening facilities for Peter Jennings "Expanded Jennings Reports" for TV News	....	40,000	....	....
NY 1390	1 Kodak Carousel projector & accessories for Owned & Operated Radio Stations	400	....	....	....
	Totals	1,781,000	1,660,000	1,616,000	1,224,000

[155] *ABC Office: TV & Radio—Hollywood; Date, Jan 20, 1967*

TELEVISION

HD-301	Ten Videotape machines	55,000	6,500	....	....
HD-349	Portable TV camera equipt	1,000	....	....	....
HD-350	Misc. TV field equipment	1,000	....	....	....
HD-352	Alterations to 2 bldgs to accommodate IBM Dept	1,000	....	....	....
HD-359	6 additional videotape machines	3,000	....	....	....
HD-368	Two 2-way radios for newsmen's cars	2,000	....	....	....
HD-369	Color facilities for Hollywood Palace Theatre	8,500	....	....	....
HD-372	Motorola 2-way radio system for the Mail & Messenger Service	500	....	....	....
HD-373	Support equipt. to supplement existing field camera equipt. to create a mobile unit	5,700	....	....	....
HD-375	Modernize Studio A Control Room	9,400	....	....	....
HD-381	Additional dressing rooms in Studio A, at TV Center	800	....	....	....
HD-384	Additional test equipment at TV Center & Mt. Wilson to replace obsolete instruments	....	10,000	....	....

[155] *ABC Office: TV & Radio—Hollywood; Date, Jan 20, 1967*—Continued

RCF—	Description	Estimated cash flow: 1967, 1st quarter	1967, 2nd quarter	1967, 3rd quarter	1967, 4th quarter
HD-386	Alter studio at 1313 N. Vine St. to accommodate the Nightlife Show	13,700			
[156] HD-393	Colorize Studio E & purchase & install new color support equipt	36,000	60,000	60,000	60,000
HD-394	16mm double system Siemens projector for KABC TV Local Film	2,500			
HD-399	General relocation of office occupancy at TV Center, 1313 N. Vine St. Also construction on scenic shed & field shop	120,000		38,000	
HD-403	Replace existing video terminal equipt. in TV Master Control	6,300			
HD-406	Color monitoring equipt. to be installed in Videotape Recording	1,700			
HD-411	Air-cooled condenser for Technical Building	1,000			
HD-418	Installation of six Phillips live color cameras in the Hollywood Palace Theatre	9,000	8,000		
HD-425	Install screening room with 2 double system 35mm projectors and one 16mm projector at 1313 N. Vine Street	5,000	4,000		
HD-428	Paint frame well for TV Production Services	12,000			
HD-431	Color equipt. to augment Telecine facility at KABC-TV	5,000	2,000		
[157] HD-433	Precise frequency master clock system for critical areas in Hlywd	5,000	8,000		
HD-434	Replace 2, existing kinescope 16mm recording systems, & add one 16mm sound-on-film recording channel	16,000			
HD-437	RF communications for Studio D stage managers	600			
HD-440	Mobile color control & camera facility	350,000	100,000		
HD-441	Barlow adaptors for Varatol zoom lenses	7,000			
HD-450	Convert screening rooms to Xenon light source & update present facilities	42,000			
HD-451	Vault can racks for Net. Film Dept. commercial library vault	2,400			
HD-455	Colorize Vine St. Theatre & install new color support equipment	660,000	500,000	500,000	
HD-460	Replace illegal stage lighting cables & provide additional lighting fixtures at TV Center, Stage F	58,000			
HD-465	Pako Color Film Processor for KABC-TV local Film Services Department	58,000	43,000		
[158] HD-470	New office equipt. for Production Services	6,600			
HD-479	Yale electric walkie-stacker for Prod. Ser.	4,000			
HD-486	Portable audience seating & PA system for Stage A in TV Engineering	16,000			
HD-490	TV Studio "D" Colorization		500,000	800,000	800,000
	RADIO NETWORK & KABC				
[159] HD-401	New technical facility to be installed in the new addition to existing Radio Building	300,000	100,000	100,000	100,000

[155] *ABC Office: TV & Radio—Hollywood; Date, Jan 20, 1967*—Continued

RCF—	Description	Estimated cash flow: 1967, 1st quarter	1967, 2nd quarter	1967, 3rd quarter	1967, 4th quarter
HD-430	FM exciter for KABC	800	600	---------	---------
HD-461	2-way radio system for Jim Eyer in Radio Net. News vehicle	---------	1,500	---------	---------
HD-462	Emergency generator system for Local & Network facilities, News rooms & KABC Transmitter in Radio Engineering	---------	8,000	15,700	---------
HD-466	Modification of KABC sign to incorporate new solid state copy changes	1,800	---------	---------	---------
HD-468	Tom Harmon Show radio field equipment	---------	3,400	3,900	---------
HD-483	Radio Network handie talkies	---------	5,000	---------	---------
(NY-1327)	KABC-Radio-FM separate programming equipment	---------	13,000	13,400	---------
	Hollywood totals	1,835,000	1,373,000	1,531,000	960,000

[160] *ABC Office WBKB—TV & Radio—Chicago; Date, January 20, 1967*

RCF—	Description	1967, 1st quarter	1967, 2nd quarter	1967, 3rd quarter	1967, 4th quarter
	WBKB-TV				
CH-124	New Telecine Film Cameras	4,000	---------	---------	---------
CH-125	Installation of Control Center with new switchers & Remote start/stop for VTR & Telecine	100,000	50,000	---------	---------
CH-149	Three (3) G.E. Color Cameras for Studio "B" at WBKB-TV	50,000	20,000	---------	---------
	WLS & NET RADIO				
CH-158	Studio Transmitter Link for WLS-Radio	2,900	---------	---------	---------
CH-161	Kohler Generator for Radio Network	1,300	---------	---------	---------
CH-169	Audiomax & Volumax Units for WLS	2,800	---------	---------	---------
	Totals	161,000	70,000	---------	---------

[161] *ABC Office WXYZ-TV & Radio—Detroit; Date, January 20, 1967*

RCF—	Description	1967, 1st quarter	1967, 2nd quarter	1967, 3rd quarter	1967, 4th quarter
DET-90	One (1) RCA TK-27 Color Film Camera & Projector	8,500	---------	---------	---------
DET-94	One (1) Color Processor with accessories	12,000	---------	---------	---------
DET-95	Colorization of Studio-C	150,000	60,000	---------	---------
DET-97	New cameras and accessory equipment for local TV News	6,900	---------	---------	---------
DET-101	Two (2) Ampex VR-2000 Video Tape Recorders	200,000	44,000	---------	---------
DET-119	Radio equipment for Traffic Helicopter	2,600	---------	---------	---------
(NY-1327)	WXYZ-Radio FM separate programming equipment	22,000	---------	---------	---------
	Totals	402,000	104,000	---------	---------

[162] *ABC Office, KGO-TV & Radio—San Francisco; Date, January 20, 1967*

RCF—	Description	Estimated cash flow			
		1967, 1st quarter	1967, 2nd quarter	1967, 3rd quarter	1967, 4th quarter
SF-164	Construction of new Radio Building for KGO, new control room for Studios C & D, and alterations to Radio & TV buildings..	50,000	....	....	....
SF-172	One (1) G.E. transmitter for TV operations, and transfer one (1) G.E. amplifier from Chicago to San Francisco..............	1,000	....	....	....
SF-176	Test equipment for KGO-TV studio, Mobile, Maintenance, Videotape, transmitter operations..............................	500	....	....	....
SF-177	Three live Color Cameras for SF studio operations, live color for Studios C & D, and small set live color for Studio A..........	100,000	....	....	....
SF-179	Emergency power supply for KGO Radio..	3,500	....	....	....
SF-180	Full color facilities for Studio A............	50,000	....	....	....
SF-183	One (1) studio transmitter link for Radio....	1,000	....	....	....
SF-185	Motorola 2-way radio system for TV News Department..........................	8,000	....	....	....
SF-186	Additional news-film equipment for KGO-TV News Department..................	2,000	....	....	....
SF-188	Two (2) additional headwheel panels for two (2) RCA TR-22 VTR's assigned to S.F...	4,000	....	....	....
SF-189	Install gas-driven generator at Mt. Sutro for KGO Radio..........................	2,000	....	....	....
(NY-1327)	KGO-Radio-FM separate programming equipment.............................	25,000	....	....	....
	Totals.............................	247,000	....	....	....

[163] *ABC Office, KQV-Radio—Pittsburgh; Date, January 20, 1967*

RCF—	Description	Estimated cash flow			
		1967, 1st quarter	1967, 2nd quarter	1967, 3rd quarter	1967, 4th quarter
PITT-60	Radio News Mobile Communications Equipment..................................	4,000	....	....	....
PITT-61	AM Antenna Ground System...............	....	12,000	....	....
(NY-1327)	KQV-Radio-FM Separate programming equipment.............................	10,000	....	....	....
	Totals.............................	14,000	12,000	....	....

ABC broadcast operations and engineering

[Revised February 8, 1967]

[164] SUMMARY

Pending project description	Total project cost	Estimated cash flow			
		1967	1968	1969	1970
Network TV:					
Tech Center—New York	$12,855,000	$3,790,000	$7,580,000	$1,485,000	----------
Interim "B" Basement	1,970,000	1,870,000	100,000	----------	----------
Tech Center—Hollywood	6,775,000	935,000	4,690,000	1,150,000	----------
Studio Colorization Plans—New York	10,360,000	4,535,000	3,240,000	1,285,000	$1,300,000
Studio Colorization Plans—Hollywood	11,330,000	400,000	6,155,000	1,500,000	3,275,000
Plant Development—New York	41,775,000	200,000	2,559,000	24,672,000	14,344,000
Plant Development—Hollywood	3,245,000	90,000	1,450,000	1,705,000	----------
Replacement Video Recorders	5,460,000	2,730,000	2,730,000	----------	----------
1968: Olympics & Conventions	2,015,000	855,000	1,160,000	----------	----------
Color Mobile Units	3,550,000	2,700,000	850,000	----------	----------
O. & O. TV	6,444,000	2,362,000	1,732,000	1,400,000	950,000
O. & O. Radio	2,333,000	522,000	1,516,000	295,000	----------
Network Radio	437,000	369,000	68,000	----------	----------
General Projects	2,520,000	690,000	1,655,000	175,000	----------
Small Capital Equipment	2,400,000	600,000	600,000	600,000	600,000
Grand total	113,469,000	22,648,000	36,085,000	34,267,000	20,469,000

[165] TECHNICAL CENTER—NEW YORK

1. New Technical Building (Construction)	$5,890,000	$3,055,000	$2,835,000	----------	----------
2. Routing Switcher (70 inputs, 130 outputs)	1,875,000	735,000	1,140,000	----------	----------
3. TV Transmission Equipment	750,000	----------	700,000	$50,000	----------
4. Program Assembly Control Room	700,000	----------	600,000	100,000	----------
5. Net Control Room #1	425,000	----------	350,000	75,000	----------
6. Net Control Room #2	525,000	----------	425,000	100,000	----------
7. Local Break Control Room for WABC TV in new building	400,000	----------	325,000	75,000	----------
8. Four (4) Color Film Chains	700,000	----------	350,000	350,000	----------
9. Four (4) Color Video Tape Recorders	715,000	----------	365,000	350,000	----------
10. Relocation of Net & Local Film Services to new Technical Building	100,000	----------	75,000	25,000	----------
11. Relocation of TV Maintenance & Eng. lab to new Technical Building	75,000	----------	----------	75,000	----------
12. Relocate TV-3 Screening Room to Tech. Bldg	150,000	----------	75,000	75,000	----------
13. Furniture, fixture & Telephones for entire new Technical Building	500,000	----------	300,000	200,000	----------
14. Move Broadcast Operations & Engineering personnel to new Technical Building	50,000	----------	40,000	10,000	----------
Totals	12,855,000	3,790,000	7,580,000	1,485,000	----------

ABC broadcast operations and engineering—Continued

[Revised February 8, 1967]

[166] INTERIM B BASEMENT

Pending project description	Total project cost	Estimated cash flow 1967	1968	1969	1970
1. Interim quarters for Broadcast Operations & Engineering at 57 West 66th Street (St. Nicks)	$180,000	$180,000	----------	----------	----------
2. Preparation of "B" Basement.					
a. Relocate local Film Services away from "B" Basement.					
b. Expand Videotape Recording into old local Film Services space.					
c. Expand color Telecine area (TV-7) into old First Aid Room & Tape Library area. Construction, $372,000	372,000	300,000	$72,000	----------	----------
3. Temporary Network Control Room (TV-5)	378,000	350,000	28,000	----------	----------
4. Four (4) Color Video Tape Recorders	520,000	520,000	----------	----------	----------
5. Four (4) Color Film Chains	520,000	520,000	----------	----------	----------
Total	1,970,000	1,870,000	100,000	----------	----------

[167] TECHNICAL CENTER—HOLLYWOOD

Pending project description	Total project cost	1967	1968	1969	1970
1. Addition to Technical Building (60′ x 120′)	$900,000	$200,000	$700,000	----------	----------
2. Routing Switcher (70 inputs—120 outputs)	1,875,000	735,000	1,140,000	----------	----------
3. Transmission Equipment	750,000	----------	700,000	$50,000	----------
4. Combination PGM Assembly and Net Control Room No. 1	750,000	----------	600,000	150,000	----------
5. Net Control Room No. 2	525,000	----------	400,000	125,000	----------
6. Local Break Control Room for KABC-TV	525,000	----------	400,000	125,000	----------
7. Four (4) Color Film Chains	700,000	----------	350,000	350,000	----------
8. Four (4) Color Video Tape Recorders	700,000	----------	350,000	350,000	----------
9. Furniture, Fixtures, and telephones for new tech building	50,000	----------	50,000	----------	----------
Total	6,775,000	935,000	4,690,000	1,150,000	----------

ABC broadcast operations and engineering—Continued

[Revised February 8, 1967]

[168] STUDIO COLORIZATION PLANS—NEW YORK

Pending project description	Total project cost	Estimated cash flow			
		1967	1968	1969	1970
1. Colorize Studio TV-1 and TV-2 Technical $3,000,000 Construction 785,000 (excludes new air conditioning)	$3,785,000	$1,000,000	$2,000,000	$785,000	----------
2. Colorize 53rd St. Studio (TV-16) Four (4) Color Cameras	535,000	535,000	----------	----------	----------
3. Colorize Elysee Theatre (TV-15) Technical $842,000 Construction 380,000	1,222,000	1,000,000	222,000	----------	----------
4. Colorize Colonial Theatre (TV-17) Technical $1,768,000 Construction 1,250,000	3,018,000	2,000,000	1,018,000	----------	----------
5. Ritz Theatre to continue as a B&W studio Colorize late 1969: Technical $1,300,000 Construction 500,000	1,800,000	----------	----------	500,000	$1,300,000
Total	10,360,000	4,535,000	3,240,000	1,285,000	1,300,000

[169] STUDIO COLORIZATION PLAN—HOLLYWOOD

Pending project description	Total project cost	1967	1968	1969	1970
1. Construction of a new building for two studios (TV-5 & TV-6). One studio to be equipped for on air March 1, 1969. Second studio to be equipped and on air April 1, 1970.					
a. Studio, TV-5 (Including TV-6 Shell) Construction $4,380,000 Technical 3,175,000	$7,555,000	$400,000	$6,155,000	$1,000,000	----------
b. Studio TV-6 Air Cond., Seating, Furniture & Fixtures $600,000 Technical 3,175,000	3,775,000	----------	----------	500,000	$3,275,000
Totals	11,330,000	400,000	6,155,000	1,500,000	3,275,000

ABC broadcast operations and engineering—Continued

[Revised February 9, 1967]

[170] PLANT DEVELOPMENT—NEW YORK

[Further development of 66th Street properties would be beyond 1970 and out of the scope of this report]

Pending project description		Total project cost	Estimated cash flow 1967	1968	1969	1970
New Network and Local TV Studios with production service shops, scenic storage and office facilities. (100′ x 300′ modular studio cores with three Control Rooms)		$41,775,000	$200,000	$2,559,000	$24,672,000	$14,344,000
Construction	$32,250,000					
Technical	9,525,000					
	41,775,000					
Total		41,775,000	200,000	2,559,000	24,672,000	14,344,000

[171] PLANT DEVELOPMENT—HOLLYWOOD

[Further development of Hollywood properties would be beyond 1970 and out of the scope of this report]

1. Extension of Service Building	$890,000	$90,000	$700,000	$100,000	----------
2. Renovation of Studio "B" for Rehearsal Hall	125,000	----------	----------	125,000	----------
3. Add Four (4) stories to existing Administration Building	1,750,000	----------	750,000	1,000,000	----------
4. Renovate Bldg. #25 for offices	150,000	----------	----------	150,000	----------
5. Expand & Refurbish Executive Dining Room and Coffee Shop	330,000	----------	----------	330,000	----------
Total	3,245,000	90,000	1,450,000	1,705,000	----------

[172] REPLACEMENT VIDEO RECORDERS

Replacement of RCA TR-22 Video Recorders with new Ampex VR-2000's or equivalent if RCA cannot supply hi-band modification kits for our present recorders:						
New York	16					
Hollywood	13					
Wash. News Bureau	4					
Detroit	2					
Chicago	5					
San Francisco	2					
Total recorders	42					
42 Recorders at 130,000 each		$5,460,000	$2,730,000	$2,730,000	----------	----------
Total		5,460,000	2,730,000	2,730,000	----------	----------

ABC broadcast operations and engineering—Continued

[Revised February 8, 1967]

[173] 1968 OLYMPICS AND CONVENTIONS

Pending project description	Total project cost	Estimated cash flow 1967	1968	1969	1970
1. Two (2) Color Film Chains	$180,000	----------	$180,000	----------	----------
2. Two (2) Color Video Recorders	230,000	----------	230,000	----------	----------
3. Portable Transmission Equipment	500,000	$400,000	100,000	----------	----------
4. Communications Van	200,000	100,000	100,000	----------	----------
5. Two (2) Portable Field Switching Systems	260,000	130,000	130,000	----------	----------
6. Microwave Equipment—20 systems	300,000	100,000	200,000	----------	----------
7. R. F. Microphones	195,000	50,000	145,000	----------	----------
8. R. F. Communications—Handi Talkies	75,000	50,000	25,000	----------	----------
9. Radio Equipment	75,000	25,000	50,000	----------	----------
Total	2,015,000	855,000	1,160,000	----------	----------

[174] COLOR MOBILE UNITS

Hollywood: One Color Mobile Unit—4 cameras	$800,000	$700,000	$100,000	----------	----------
New York: One Color Flash Mobile Unit—2 cameras	350,000	250,000	100,000	----------	----------
Washington News Bureau:					
One Color Mobile Unit—4 cameras	800,000	600,000	200,000	----------	----------
One Color Mobile Unit—2 tape	450,000	200,000	250,000	----------	----------
One Color Flash Mobile Unit—2 cameras	350,000	250,000	100,000	----------	----------
Chicago: One Color Mobile Unit—4 cameras	800,000	700,000	100,000	----------	----------
Total	3,550,000	2,700,000	850,000	----------	----------

[175] TELEVISION-OWNED STATIONS—SUMMARY

New York—WABC-TV	$980,000	$360,000	$595,000	$25,000	----------
Detroit—WXYZ-TV	610,000	610,000	----------	----------	----------
Chicago—WBKB-TV	547,000	410,000	137,000	----------	----------
San Francisco—KGO-TV	2,552,000	962,000	1,000,000	350,000	$250,000
Hollywood—KABC-TV	1,755,000	30,000	----------	1,025,000	700,000
TV owned stations total	6,444,000	2,362,000	1,732,000	1,400,000	950,000

ABC broadcast operations and engineering—Continued

[Revised February 8, 1967]

[176] WABC-TV—NEW YORK

Pending project description	Total project cost	Estimated cash flow			
		1967	1968	1969	1970
1. Two (2) New ColorFilm Chain for local WABC-TV @ 130,000 ea.	$260,000	$260,000			
2. Replacement of the Visual-6000 Automation Switching System in "B"-Bldg. now called local TV-D. To be operational by Nov. 30, 1967. This new equipment will be moved to the new Eng. Technical Bldg. when the bldg. is completed	195,000	100,000	$95,000		
3. Replacement of present Main & EMG TV transmitters @ Empire State Bldg. with new parallel transmitters. Present Main GE-TT-32-B, 13 years old; EMG. TT-5, 20 years old	525,000		500,000	$25,000	
TOTAL	980,000	360,000	595,000	25,000	

[177] WXYX-TV—DETROIT

Pending project description	Total project cost	1967	1968	1969	1970
1. A new Color Film Chain to replace present mono-plexed B & W Film Camera Chain and replacement of obsolete telecine Video Monitors (April Board)	$135,000	$135,000			
2. Colorize Studio "B" with three (3) Color Cameras for operation by September 1967 (June Board)	450,000	450,000			
3. New TV transmitter input video distribution equipment including processing amplifier and TV Demodulator	25,000	25,000			
Total	610,000	610,000			

[178] WBKB-TV—CHICAGO

Pending project description	Total project cost	Estimated cash flow			
		1967	1968	1969	1970
1. Purchase additional TV Lighting Equipment for Studios B & C.	$12,000	$12,000			
2. Color Chroma Key Equipment for Studio "C"	6,000	6,000			
3. Two (2) Color Film Cameras to be installed on existing B & W Film Islands #7 & #8 @ 65,000 ea. pending Program Department jurisdiction	130,000	65,000	$65,000		
4. Replacement of obsolete studio Control Room Video Monitors	24,500	24,500			
5. Studio RGM Cue RF Systems	5,000	5,000			

ABC broadcast operations and engineering—Continued

[Revised February 8, 1967]

WBKB-TV—CHICAGO

Pending project description	Total project cost	Estimated cash flow			
		1967	1968	1969	1970
6. Cartridge Tape Playback Machines	$2,500	$2,500			
7. Colorize Studio "C" with two (2) Color Cameras by July 1967	250,000	250,000			
8. Color Video Equalizer & Amplifier	40,000	40,000			
9. Replacement of obsolete Video & Pulse distribution system	25,000		$25,000		
10. Three (3) new Audio Consoles for Studios A, B, & C	30,000		30,000		
11. Expansion of Video Tape input selection system	12,000		12,000		
12. Replacement of obsolete test equipment in TV Maintenance and at transmitter	10,000	5,000	5,000		
Total	547,000	410,000	137,000		

[179] KGO-TV—SAN FRANCISCO

Pending project description	Total project cost	1967	1968	1969	1970
1. Replace present two (2) Ampex VR-1000 B & W Video Tape Recorders with two (2) new Ampex VR-2000 Color Video Recorders @ 130,000 ea.	$260,000	$260,000			
2. Add one (1) Color Film Camera to present B & W Film Island #3. Possible transfer of a NY-TV Network TK-26 Color Film Camera	65,000	65,000			
3. One (1) completely new Color Film Chain to be called Island #4. Under study by local programming department	130,000	130,000			
4. Two (2) Color Studio Cameras by June 1967	250,000	250,000			
5. SF-182, Four (4) JAN Screening Projectors for KGO-TV Film Operation	7,000	7,000			
6. Refurbish TV Control Center (TVCC) including new monitors, operating console, processing amplifiers and audio amplifier	40,000	40,000			
7. SF-153, Sutro Tall Tower Project preliminary developmental cost for tower design and antenna configuration including FM Antenna	1,000,000	200,000	$700,000	$100,000	
8. Three (3) Color Studio Cameras by June 1968	300,000		300,000		
9. Within three (3) years—An extension to the present KGO-TV Technical Building for increased office and technical space. New 5 story extension would be to the rear of #247 Golden Gate Avenue property	500,000			250,000	$250,000
Totals	2,552,000	952,000	1,000,000	350,000	250,000

ABC broadcast operations and engineering—Continued

[Revised February 8, 1967]

[180] KABC-TV—HOLLYWOOD

Pending project description	Total project cost	Estimated cash flow			
		1967	1968	1969	1970
1. Colorization of Studio "A" for KABC-TV (following the completion of new network Studio TV-5	$750,000			$750,000	
Technical 600,000					
Construction 150,000					
2. Audio/Video Input Equipt at Mount Wilson TV Transmitter	30,000	$30,000			
3. Replacement of 1952 TV Tower and Antenna on Mount Wilson	550,000			275,000	$275,000
4. Parallel TV Transmitters, Remote Control and Automatic Logging	425,000				425,000
Totals	1,755,000	30,000		1,025,000	700,000

[181] RADIO-OWNED STATIONS—SUMMARY

New York WABC—radio	$259,000	$79,500	$179,500		
Pittsburgh KQV—radio	417,000	157,000	230,000	$30,000	
Detroit WXYZ—radio	534,000	176,500	357,500		
Chicago WLS—radio	119,000	54,500	34,500	30,000	
San Francisco KGO—radio	419,000	4,500	209,500	205,000	
Hollywood KABC—radio	85,000		55,000	30,000	
New 7th radio station by yearend	500,000	50,000	450,000		
Radio-owned station total	2,333,000	522,000	1,516,000	295,000	

[182] WABC-RADIO—NEW YORK

1. WABC—Lodi, N.J., AM transmitter refurbishing	$250,000	$75,000	$175,000		
2. Transmitter control and metering STL	9,000	4,500	4,500		
Total	259,000	79,500	179,500		

[183] KQV-RADIO—PITTSBURGH

1. Estimate on new KQV-radio facilities including offices, studios, and technical equipment	$350,000	$150,000	$200,000		
(*Technical & construction*)					
Technical $125,000					
Construction 225,000					
2. Helicopter communications equipment	5,000	5,000			
3. Ampex audio recorder	2,000	2,000			
4. FM-vertical polarization of antenna	60,000		30,000	$30,000	
Total	417,000	157,000	230,000	30,000	

ABC broadcast operations and engineering—Continued

[Revised February 8, 1967]

[184] WXYZ-RADIO—DETROIT

Pending project description	Total project cost	Estimated cash flow 1967	1968	1969	1970
1. Cartridge tape equipment	$16,000	$16,000			
2. Radio test equipment	3,000	3,000			
3. Emergency power generator for AM-radio	15,000	7,500	$7,500		
4. Extension of broadcast & office facilities (April 1967 board)	500,000	150,000	350,000		
5. F.M. vertical polarization of antenna					
Total	534,000	176,500	357,500		

[185] WLS-RADIO—CHICAGO

Pending project description	Total project cost	1967	1968	1969	1970
1. Transmitter control and metering STL	$9,000	$4,500	$4,500		
2. Program automation for WLS-FM	50,000	50,000			
3. F.M. vertical polarization of antenna	60,000		30,000	$30,000	
Total	119,000	54,500	34,500	30,000	

[186] KGO-RADIO—SAN FRANCISCO

Pending project description	Total project cost	1967	1968	1969	1970
1. Broadcast & office facilities estimate on extension of the KGO-Radio facilities	$350,000		$175,000	$175,000	
2. FM vertical polarization of antenna	60,000		30,000	30,000	
3. Transmitter control & metering STL	9,000	$4,500	4,500		
Total	419,000	4,500	209,500	205,000	

[187] KABC-RADIO—HOLLYWOOD

Pending project description	Total project cost	1967	1968	1969	1970
1. New antenna ground system	$25,000		$25,000		
2. FM—vertical polarization of antenna	60,000		30,000	$30,000	
Total	85,000		55,000	30,000	

ABC broadcast operations and engineering—Continued

[Revised February 8, 1967]

[188] RADIO NETWORK

Pending project description	Total project cost	Estimated cash flow 1967	1968	1969	1970
1. NY-1040 Supplement for additional technical equipment and construction for Net Radio at Washington News Bureau	$297,717	$247,717	$50,000		
Technical 114,600					
Construction 183,117					
2. Emergency power generator for Net Radio—Washington News Bureau	6,500	6,500			
3. Replace Tom Harmon technical equipment Hollywood—destroyed by fire	35,283	35,283			
4. Replace obsolete field amplifiers	45,000	45,000			
5. Radio equipment for Apollo Space Shots	20,000	20,000			
6. Radio R.F. equipment for Special Events—Golf, Football, etc.	8,500	8,500			
7. New Radio Net Alert System for Chicago, New York, Washington, and Los Angeles	24,000	6,000	18,000		
Total	437,000	369,000	68,000		

[189] GENERAL PROJECTS

Pending project description	Total project cost	1967	1968	1969	1970
New York:					
1. Two (2) Color Kine Recorders	$300,000	$25,000	$275,000		
2. Four (4) Additional Vid-Film Systems	700,000	175,000	350,000	$175,000	
3. Atomic Frequency Automatic Color Locking System for N.Y., Wash. & Chicago	95,000	95,000			
4. Videotape Pulse Switching System	45,000	45,000			
Hollywood:					
1. Two (2) Color Kine Recorders	300,000	25,000	275,000		
2. Pulse Distribution Equipment for TV Master Control	40,000	40,000			
TV News Department:					
1. One (1) Color Film Chain for Europe	200,000		200,000		
2. Three (3) Color Film Processors for L.A., N.Y. & Far East	475,000		475,000		
Technical $40,000					
Construction 85,000					
Per unit 125,000					
3. Additional Beckman & Whitley news film cameras for Bureaus where more than one camera is located (replaces old auricon film cameras)	180,000	100,000	80,000		

ABC broadcast operations and engineering—Continued

[Revised February 8, 1967]

[190] GENERAL PRODUCTS—Continued

Pending project description	Total project cost	Estimated cash flow 1967	1968	1969	1970
4. Additional film equipment for News crews to be employed for the Morning Show to be produced out of Washington	25,000	25,000			
5. Film editing equipment for the Morning News show	10,000	10,000			
6. Film editing equipment for Far East & Europe for satellite feeds	10,000	10,000			
Screening & projection equipment:					
7. Morning Show screening facilities	10,000	10,000			
8. Additional interlock in present facilities	10,000	10,000			
9. Interlock in Wash. network projection	30,000	30,000			
10. Far East & European screening	5,000	5,000			
Radio communications:					
11. New York modification for two-way radio	45,000	45,000			
12. Bureau mobile phones	30,000	30,000			
13. R.F. microphones	10,000	10,000			
Totals	2,520,000	690,000	1,655,000	175,000	

[191] SMALL CAPITAL EQUIPMENT

Anticipated Small Capital Equipment Items (under $10,000) which are normally replaced or added within a calendar year	$2,400,000	$600,000	$600,000	$600,000	$600,000
Total	2,400,000	600,000	600,000	600,000	600,000

[192] ANNUAL SMALL CAPITAL EQUIPMENT

(Under $10,000 per item)

CATEGORIES OF EQUIPMENT ITEMS THAT WILL FALL WITHIN AN ANNUAL EQUIPMENT BUDGET

A. TERMINAL EQUIPMENT

Audio Amplifiers
Pulse Distribution Amplifiers
Video Distribution Amplifiers
Processing Amplifiers
B&W Video Monitors

Color Video Monitors
Oscilloscopes
Vectorscopes
Test Signal Generators
Color Bar Generators
Colorplexers
Sync Generators
Video Patch Panels, Plugs & Cords
Audio Patch Panels, Plugs & Cords
Equipment Racks & Console Housings
Remote Control Devices
Vendor Modification Kits to up-date present equipment
Tape Cartridge Units
Studio/Field Remote Amplifiers

B. STUDIO/FIELD EQUIPMENT
TV Camera Lens
TV Camera Friction Heads
TV Camera Pedestals and Tripods
TV Camera Cables, Plugs & Connectors
Headsets and Intercom Equipment
Audio Tape Recorders
R.F. Microphones
Walkie-talkie equipment

[193]

C. FILM EQUIPMENT
Screening Projectors
Editing Equipment such as Moviolas, shelves, benches, splicers, etc.

D. TOOLS (SAWS, DRILLS, ETC.)
TV Maintenance
Radio Maintenance
Production Services

E. TV AND RADIO TEST EQUIPMENT
Replacement Only

F. PRODUCTION SERVICES
Studio Lighting Fixtures
Miscellaneous Studio Service Equipment Items

TOTAL ANNUALLY: $600,000

[194] [Exhibit AR 4]

POLICY GUIDE	POLICY	NUMBER: Policy GE 1.3
	SUBJECT: BROADCAST LICENSE RESPONSIBILITY OF ABC AND ITT	EFFECTIVE: 11/1/66
		CANCELS:
AFFECTS: ITT SYSTEM	SIGNATURE: CHAIRMAN AND PRESIDENT-ITT	DATED:
		DISTRIBUTION: ALL
		PAGE: 1 of 2

PURPOSE

This Policy Statement is to implement and reaffirm previous instructions, directives, and contractual obligations regarding the substantially autonomous relationship between the network and broadcasting operations of American Broadcasting Companies, Inc., and the operations of all other ITT System companies and groups.

SCOPE

The broadcast licenses which have been granted by the Federal Communications Commission, and which are subject to periodic review and renewal, represent an important public trust as well as one of the most valuable assets of ITT. In this connection, ITT entered into certain contractual obligations and has made assurances to the FCC concerning the way in which ITT intends to carry out its responsibilities as the parent corporation of a broadcasting licensee. It is the policy of ITT to carry out these commitments and assurances in full, in complete good faith, and without equivocation.

No officer, employee, or agent of any ITT System company or group has any authority to act in any manner inconsistent with the provisions of this Policy Statement, nor to authorize, direct or condone violations of its terms by any other person. Such activity would constitute one of the greatest disservices that anyone could do to the Company. Consequently, any officer, employee, or agent who violates this Policy, or who orders or knowingly permits a subordinate to violate this Policy, shall be subject to severe disciplinary action, including discharge.

APPLICATION

The following Policy Statements shall be carried out in full by all ITT System personnel:

(1) The network and broadcasting operations of ABC shall be kept separate from other ITT operations and shall be carried out by its duly appointed officers and employees whose performance will be measured solely on the basis of the results of those operations. The operations of ABC as a broadcast licensee shall be performed unaffected by commercial, communications, or other similar interests of other ITT System companies or groups. Thus for example, if in the opinion of ABC management, charges proposed for communications services by ITT World Communications, Inc., are subject to protest to the FCC, such protest shall be filed and vigorously maintained until disposed of by the Commission. Similarly, ABC shall independently

determine its position on particular satellite or other communications questions and present its views to the FCC as to how the Commission should resolve such issues, and any other interested ITT System company or group shall similarly formulate and present its views to the FCC or to other Governmental bodies or agencies considering the question without regard to the interests of ABC as a broadcaster,

(2) The independence of ABC programming from any other ITT commercial or other similar interest shall be inviolate. No officer, employee, or agent of any ITT System company or group shall take any action or make any attempt to influence in any way whatsoever in the news, special events, entertainment, or other programming of the ABC network or stations for the purpose of attempting to further, or to avoid a conflict with, the commercial or other interests of an ITT System company or group.

(3) No officer, employee, or agent of any ITT System company or group shall take any action or make any attempt to influence in any way whatsoever, or to interfere with, advertising by any other company or person on the ABC network or stations.

(4) Any and all advertising purchased by ITT System companies or groups from the ABC network or stations shall be on a complete arm's length basis, and on terms no more advantageous or preferential to such associated companies than for any other purchaser of facilities from ABC.

(5) It is ITT policy to sell its products and services solely on the basis of the commercial criteria of superior quality, suitability, efficiency, service and price. Any and all purchases of equipment for ABC's network and station operations shall be made on a complete arm's length basis on the basis of these factors and without preferential consideration of other ITT System companies or groups. Similarly, no officer, employee or agent of ABC or of any other ITT System company or group shall attempt to develop sales of advertising or any other service or product through the use of, or threatened withdrawal of, any existing or potential reciprocal buying leverage or "reciprocity". In this connection information concerning ITT System purchases from particular suppliers shall not be made available to personnel concerned with developing sales and marketing.

[Exhibit AR 8]

[212] Extract From December 21, 1964 Executive Committee Meeting

MINUTES of a Meeting of the Executive Committee of the Board of Directors of American Broadcasting-Paramount Theatres, Inc., a New York corporation, held at the office of the Corporation, 7 West 66th Street, New York, N.Y., on Monday, December 21, 1964 at 4:00 P.M. E.S.T.

PRESENT: Messrs. John A. Coleman, E. Chester Gersten, Robert L. Huffines, Jr., Walter P. Marshall, Simon B. Siegel, constituting a majority of the members of the Executive Committee and a quorum. Messrs. Everett H. Erlick and Jerome B. Golden also attended the meeting at the invitation of the Committee.

Mr. Coleman, Chairman of the Committee, presided at the meeting. Mr. Golden acted in his official capacity as Secretary of the Corporation.

* * * * * * *

At the request of the Chairman, Mr. Siegel reported on operations at the ABC Television Center in Hollywood, California. He stated that it would be desirable to expand and update the television studios, office areas and technical facilities at the Center and he reported on a preliminary estimate of the cost of such work. He then recommended that the Division be authorized to expend approximately $300,000 for architectural and engineering fees for preparation of designs and plans for such proposed expansion and updating. He stated further that, upon the completion of the designs and plans, a final estimate of the cost of the work would be made and the matter would then be presented to the Board of Directors for it to consider an authorization for the actual work.

[213] Thereupon, after discussion, upon motion duly made and seconded, it was unanimously

> RESOLVED that the proper officers of the Corporation and the American Broadcasting Company Division of the Corporation be, and they hereby are, authorized and empowered, in the name and on behalf of said Division, to expend approximately $300,000 for architectural and engineering fees for preparation of designs and plans for the proposed expansion and updating of the television studios, office areas and technical facilities at the ABC Television Center in Hollywood, California.

At the request of the Chairman, Mr. Siegel referred to the proposed use of the 66th and 67th Street, New York City properties of the Corporation after the executive and administrative offices of the Corporation are moved to 1330 Avenue of the Americas, New York City, and he reported on a preliminary estimate of the cost of altering and improving the properties for such use. He then recommended that the Division be authorized to expend approximately $300,000 for architectural and engineering fees for the preparation of designs and plans for such alterations and improvements. He stated further that,

upon the completion of the designs and plans, a final estimate of the costs of the alterations and improvements would be made and the matter would then be presented to the Board of Directors for it to consider an authorization for the actual work.

Thereupon, after discussion, upon motion duly made and seconded, it was unanimously

> RESOLVED that the proper officers of the Corporation and the American Broadcasting Company Division of the Corporation be, and they hereby are, authorized and empowered, in the name and on behalf of said Division, to expend approximately $300,000 for architectural and engineering fees for the preparation of designs and plans in connection with the proposed use of the 66th and 67th Street, New York City properties of the Corporation after the executive and administrative offices of the Corporation are moved to 1330 Avenue of the Americas, New York City.

[Federal Communications Commission Exhibit No. AR 10;]
presented by American Broadcasting Co.]

[216]

THE AUSTIN COMPANY,
ENGINEERS AND BUILDERS,
New York, N.Y., April 16, 1965.

Mr. FRANK MARX,
President, ABC Engineers,
American Broadcasting Co.,
7 West 66th Street,
New York, N.Y.

Subject: Purpose and Scope of Work of Engineering Report

DEAR MR. MARX: On March 9, 1965 you authorized us to make a preliminary survey and gather data of your operations and facilities in order to determine the scope of a Master Report for utilization of the buildings on the West 66th & 67th Street block as a production center.

As a result of various meetings in your offices there has been established three basic facts:

a. That your executive/administrative offices are moving to 1330 Avenue of the Americas and are not part of this Survey and Report.

b. That there is an urgent requirement to have a new color TV studio in operation by September 1, 1966 utilizing the Arena Building.

c. That a Survey and Report should be made to develop a sequential program for facilities to establish a production center on your property bounded by 66th, 67th Streets and Columbus Avenue, with the intent to consolidate all production operations in this area and abandon all leased spaces.

[217] We have received prints of the following ABC drawings which show preliminary ABC thinking on the new studio and supporting functions (item b. above), and are to be used for background information only, and will not be considered as necessarily the best solution to accommodating the activities of the new studio and its supporting functions.

W-5081-1—Plot Plan
W-5081-2—Diagramatic Section—thru Warehouses
W-5081-3—First Floor Plan
W-5081-4—Second Floor Plan
W-5081-5—Third Floor Plan
W-5081-6—Fourth Floor Plan
W-5081-7—Fifth Floor Plan
W-5081-8—Sixth Floor Plan
W-5081-9—Seventh, Eighth, Ninth Floor Plan

We have also received prints of the existing buildings relating to the Arena Building, Columbus Avenue warehouses, and the three buildings in West 67th St. near Columbus Ave.

We also understand that other drawings are available in your files covering balance of buildings in the production block (item c. above), and Austin can review and request prints of necessary drawings as required.

We have recommended and you have authorized us to retain Mr. H. M. Cole as a consultant in major, non-routine matters of zoning, building code, labor law and other applicable ordinances and regulations relative to the development of your consolidated production facilities; and further to act as representative

in dealing with the various departments and agencies having jurisdiction.

As a result of the above, and due to the extreme urgency of having the new Color TV Studio in operation by September 1, 1966, we will recommend developing the Master Report in stages to suit the requirements.

PART I—IMMEDIATE OBJECTIVE

A. This will require a new complete Color TV Studio to be located in the Arena Building on West 66th Street [218] modified to suit and be ready for ABC installation of production equipment on May 1, 1966. In order to determine structural capability of the roof trusses and second floor you authorized us verbally on March 23, 1965 to assign suitable personnel to commence with preliminary design work on the Arena Building.

We have completed our field investigation of the Arena Building and are now preparing outline drawings and specifications for this work for your review and approval. These approved drawings and specifications will form the basis for preparation of budget estimates by others and for preparation of detailed engineering drawings and specifications for construction of this facility. We are attaching two (2) copies of Sequence of Operations relative to the work in connection with the new studio.

B. Alterations to existing warehouse buildings at 145 and 153 Columbus Avenue to permit storage of scenery and truck dock for receiving materials and to existing building at #52, #56 and #60 West 67th Street for shops and storage will be scheduled to commence at the earliest practical date without delaying the color TV studio project and to be completed by September 1, 1966 or as soon thereafter as practicable. The attached Sequence of Operations will be modified in the near future to reflect the requirements of this Item B.

C. Passage on ground floor level to permit interior movement of scenery from warehouse to TV 1 and 2.

D. Building services for heating, ventilating and air conditioning, plumbing, building equipment and Owner process power.

PART II—LONG RANGE OBJECTIVE

A. Alterations to existing buildings, A, B, C, D, E, F, G, J and the Healy Building to permit relocation, expansion and rearrangement for the following production departments:

a. ABC Engineers

b. Office and Studio Services (Part.) Including Building Maintenance

[219]

c. News

d. WABC–TV Programming (Part) Administration (Part) and Production

e. WABC–TV Film Services

f. TV Network Programming (Part)

g. Radio Network Programming (Part)

h. TV Network Film Services

i. TV Production Services

j. Studios, TV and Radio except WABC

k. Supply and Receiving (Part)

l. First Aid (Part)

m. VTR, Film Projection and Central Technical Facilities

B. Each building expansion or rearrangement must be justified on the basis of need, and shall be an increment in the master plan development of the production facility.

C. The new or re-used buildings must be laid out for efficient interdepartment traffic flow.

D. Existing buildings must be utilized to their maximum practical use.

E. The proposed construction program must be sequenced so that there is a minimum disruption of routine of any departments involved.

F. The proposed building designs and materials of construction shall be selected on the basis of function and economy but architectural esthetics will be considered where it will enhance the prestige and appearance of the facility. A plan, or alternative plans, for unification of the frontal appearance of the Pro-

duction Center Buildings on West 66th Street and Columbus Avenue will be proposed.

G. The allotment of space and the phasing of construction to accommodate the technical equipment which will be specified and arranged by ABC.

The following information will be required from ABC to form a basis for our work, and we will consult with the ABC personnel designated by ABC to gather the information:

1. The requirements for a new Color TV Studio and its supporting facilities.

[220] 2. The future trend of TV programming as it will affect the use of studios and technical facilities.

3. The present and anticipated personnel count by function for each department affected by the expansion and consolidation program so that office and departmental locations can be planned.

The presentation of the study will contain the following items:

1. A justification or explanation for each building expansion or rearrangement as recommended.

2. Preliminary drawings including floor plans, and necessary elevations, sections, etc., to outline the proposed work.

3. Outline specifications to further define the proposed work.

4. Architectural renderings for the proposed modified production facility.

In performing this survey and report we shall work in close collaboration with you and the various members of your staff whom you designate. We will periodically discuss with you the progress of the work and we will from time to time solicit your advice and assistance and request additional data as required during the progress of the work.

We estimate it will take from 14 to 16 weeks after authorization to complete the Report.

Part I of the Report will take five (5) weeks to complete, starting as of March 23, 1965.

We estimate the cost of this Report will be in the range of $38,000. to $43,000. We will not exceed $43,000. without your knowledge and prior approval.

Budget estimates for construction of the facilities will be furnished by others.

[221] This Report will be done under the terms and conditions of our Standard Commission Contract with you dated December 31, 1961.

It is a pleasure to submit this letter for the proposed consolidation program for the production operations in the 66th, 67th Street block. We are in a position to start immediately upon your authorization.

If the above meets with your approval please sign the duplicate copy of this letter and return to us.

Very truly yours,

THE AUSTIN COMPANY,
JOHN W. ERIKSEN.

Approved:

AMERICAN BROADCASTING-PARAMOUNT
THEATRES, INC.,
By ——————————,
Vice President.

Date: April 28, 1965.

[222] SEQUENCE OF OPERATION

A meeting was held on April 9, 1965 at which were present Messrs. Sebastian, Pointer and Preston for A.B.C. and Messrs. Eriksen, Gishlick and Checchi for Austin. Inasmuch as there appeared to be some question as to the sequencing of operations, it was suggested that a detailed schedule be presented to clarify this item. In connection with this please note the following target dates.

a. *April 16, 1965.*—Austin to submit description of demolition to be performed within the interior of St. Nicholas Arena with support sketches that, with inspection of the site budget cost can be quoted to perform this work. Upon acceptance of cost by Owner and issuance of the required permits, demolition is to commence on the earliest date possible.

b. *April 26, 1965.*—Austin to submit for final review and comments layout drawings and outline specifications—these

drawings to be reviewed by Mr. Cole for comments in connection with the Building Department requirements.

c. *April 30, 1965.*—Final scope drawings and specifications completed, ready for engineering to commence. To be submitted to Owner for approval and signature. Lighting and Accoustical Design will be initiated on this date.

d. *May 3, 1965.*—Detailed engineering to commence. Scope drawings filed with the Building Department (if permitted) for alteration application number and preliminary review. Mr. H. Cole to file these documents.

e. *September 6, 1965.*—Construction to commence on Studio. This date requires confirmation of contractor.

f. *November 1, 1965.*—Engineering substantially complete.

g. *May 1, 1966.*—Construction sufficiently complete. Commence with A.B.C. equipment run-in period.

h. *September 1, 1966.*—On The Air!

The above schedule relates to the Studio only with preparatory work for the future integration of the five adjacent buildings limited to adequate engineering for filing with the Building Department.

[Federal Communications Commission Exhibit No. AR-11; presented by American Broadcasting Co.]

[223] AMERICAN BROADCASTING COMPANY,
INTERDEPARTMENT CORRESPONDENCE,
April 29, 1965.

To All concerned.
From Frank Marx.

The Austin Company has completed its preliminary survey for the development of the 66th Street properties and will shortly commence work on a master report for the utilization of the buildings on the West 66th–67th Street block as a Production Center.

The immediate objective is the completion of a color TV studio to be located in the Arena Building on West 66th Street to be ready for operation by September 1966.

In performing this work the Austin Company will require additional meetings and information from those departments

which will remain in this area in order to fulfill each of the requirements.

Expansion and rearrangement studies will be made for the following departments and groups:

(a) Operations and Engineering

(b) Office and Studio Services, including Building Maintenance (partial)

(c) ABC News

(d) WABC–TV Programming (partial), Administration (partial) and Production

(e) WABC–TV Film Services

(f) TV Network Programming (partial)

(g) Radio Network Programming (partial)

(h) TV Network Film Services

(i) TV Production Services

(j) Additional Studios, TV and Radio (except WABC)

(k) Supply and Receiving (partial)

(l) First Aid (partial)

(m) VTR, Film Projection and Central Technical Facilities

As rapidly as preliminary plans become available they will be transmitted to the specific departments for study, comments and facility layouts.

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[224] [Exhibit AR 12]

SUMMARY HOLLYWOOD EXPANSION, JULY 8, 1965

	Alternate No. 1	Alternate No. 2
Phase 1	7,128,000	
Phase 2(a)	1,258,000	
Phase 1 and 2(a)	8,386,000	
Phase 1 and 2(b)		8,648,000
Phase 3	1,788,000	1,788,000
Phase 1, 2, 3	10,174,000	10,436,000
Phase 4	2,028,000	2,028,000
Total	12,202,000	12,464,000

[225] *Phase 1*

STUDIO 5, SUPPORT FACILITIES AND SHELL STUDIO 6

Construction Costs:		
Studio 5, 6 shell, studio core and corridor*	2, 530, 680	
Service Building*	552, 400	
Central Heating and Refrigeration*	308, 600	
Piping—gas—water*	44, 750	
Terraced Parking*	93, 950	
Parking Lot Lighting	20, 000	
Scenic Storage Building	50, 000	
Guard House	4, 000	
Service Building—Interior Partitions, paint frame, etc	46, 200	
Landscaping	20, 000	
		3, 671, 000
Furnishing & Equipment (non-electronic):		
Seating, carpet and drapes	33, 000	
Furniture	35, 000	
Equipment for Service Building	44, 500	
		113, 000
Total		3, 784, 000
Electronic Equipment Installed		3, 005, 000
Total		6, 789, 000
Contingency		339, 000
Total cost, phase 1		7, 128, 000

*Austin Co estimate of May 7, 1965, pages 5-1 and 5-2 of report.

[226] *Phase 2*

COMPLETION OF STUDIOS 6B AND 6C

a. 45-foot ceiling:		
Construction	52, 000	
Electronic Equipment Installed	1, 146, 000	
Total	1, 198, 000	
Contingency	60, 000	
		1, 258, 000
b. Second Level (Studio Control Room, Offices):		
Construction	302, 000	
Electronic Equipment Installed	1, 146, 000	
Total	1, 448, 000	
Contingency	72, 000	
		1, 520, 000

Phase 1		7, 128, 000	
Phase 1 and Phase 2(a)			8, 386, 000
Phase 1 and Phase 2(b)			8, 648, 000

[227] *Phase 3*

EQUIPPING STUDIO 6A

Furnishings	50, 000		
Electronic Equipment Installed	1, 653, 000		
Total	1, 703, 000		
Contingency	85, 000		
Total	1, 788, 000		
Phase 2(a)		8, 386, 000	
Phase 2(b)		8, 648, 000	
Phase 3 and 2(a)			10, 174, 000
Phase 3 and 2(b)			10, 436, 000

[228] *Phase 4*

ADMINISTRATION BUILDING

Construction:			
Administration Building	1, 322, 400		
Technical Building Rehabilitation	301, 100		
Maintenance Building Rehabilitation	141, 300		
Service Tunnel	18, 100		
Telephone Installation	9, 750		
		1, 793, 000	
Furnishings:			
Furniture	118, 000		
Carpets & Drapes	10, 650		
Cabinets	10, 000		
		139, 000	
Total		1, 932, 000	
Contingency		96, 000	
Total		2, 028, 000	
Phase 3(a)		10, 174, 000	
Phase 3(b)		10, 436, 000	
Phase 4(a)			12, 202, 000
Phase 4(b)			12, 464, 000

[Federal Communications Commission Exhibit No. AR–15, presented by American Broadcasting Co.]

[253]

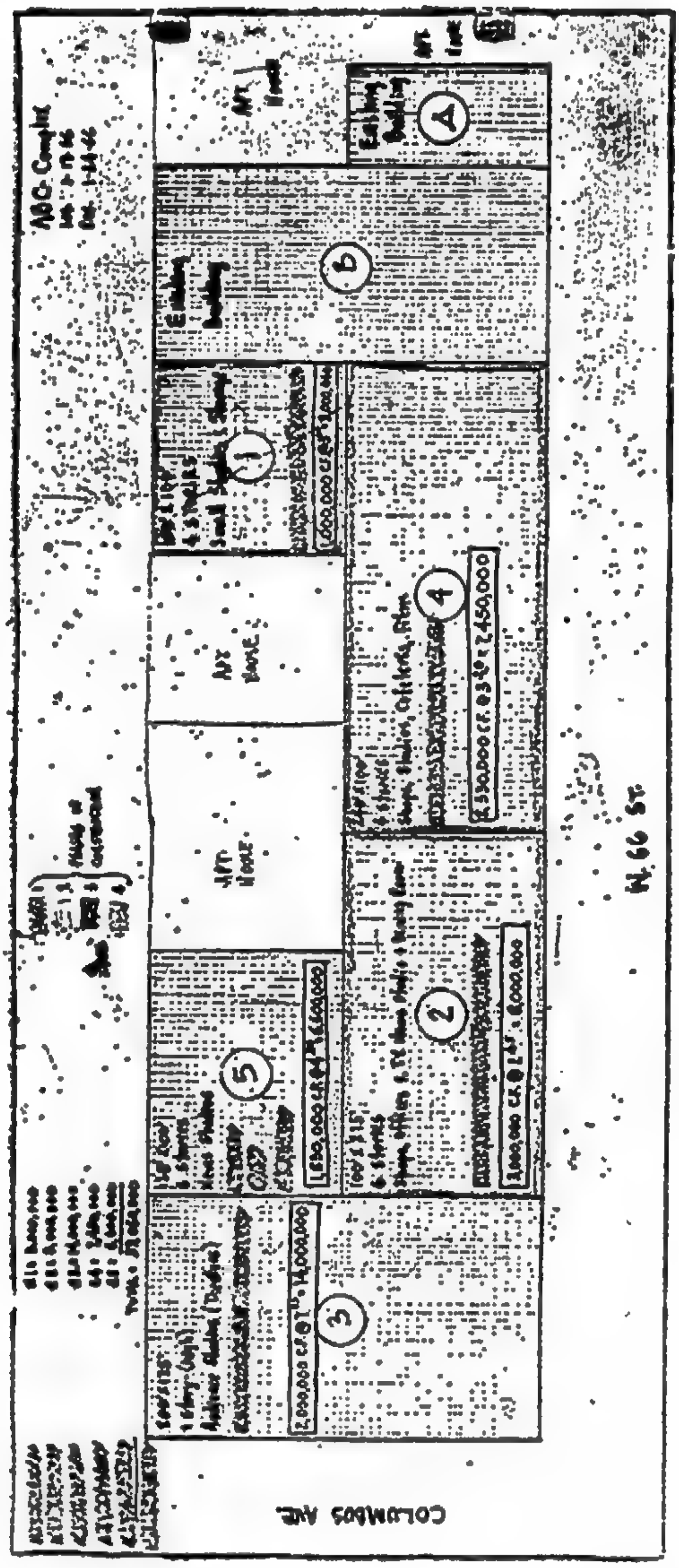
DIESEL CONSTRUCTION,
A DIVISION OF CARL A. MORSE, INC.,
January 24, 1966.

MR. FRANK MARX,
American Broadcasting Companies, Inc.,
7 West 66th Street, New York City, N.Y.
Re: ABC Complex.

DEAR MR. MARX: In accordance with our various conversations, we have worked-up some rough figures based on cubes and have come up with an approximate project value of $39,050,000. The enclosed key plan gives the approximate breakdown.

Cordially,

IRWIN MILLER,
Executive Vice President.


COLUMBUS AVE.
W. 66 ST.

[Federal Communications Commission Exhibit No. AR–19; presented by American Broadcasting Co.]

[288] AMERICAN BROADCASTING COMPANY,
INTERDEPARTMENT CORRESPONDENCE,
July 15, 1966.

To: Mr. Julius Barnathan.
From: Frederick J. Schuhmann.
Subject: Austin Meeting 7/8/66.

In a meeting held July 8th at 1330 the Austin Company presented its recommendations to ABC. Among those present were Messrs. Goldenson and Siegel, who have asked for comments from ABC personnel regarding the Austin Plan.

The presentation by the Austin Company was a complete disaster, with a poor slide presentation and poor coordination of sequence in relating requirements. The content of the presentation was the same as submitted in lesser detail at the beginning of the year. It was quite apparent that the plan, which the Austin people clearly indicated was a result of requests by various department heads along with overall guidelines set forth by the company, did not seem favorable to Mr. Goldenson. Mr. Siegel pointed out that in fairness both to the Austin Plan and to ABC, the tremendous expansion, both actual and projected, of ABC since the first of the year has been beyond that which was readily foreseeable. I think this is the most vital factor resolved in the meeting.

Therefore, the recommendation for a three-storied structure on the most valuable piece of property (facing Columbus Avenue between 66th and 67th Streets) is not a feasible one.

There is no doubt that the Austin people were put in a vise between projecting the growth for the next several years of those areas to be confined to the production center and the continuing problem of keeping the day-to-day operation on the air and simultaneously expanding these operations within the next year, such as the expansion of technical facilities into the basement areas on West 67th Street.

Further, I was surprised that comments regarding the layout

as presented in draft form in January had not been incorporated into the plan. Attached you will find copies of minutes from the meetings held with ABC and Austin personnel, along with a rough copy of plans showing modifications requested. It is apparent that the only work done after the first of the year concerning the overall project was the modifications to "A" Building for News and office space at 1926 Broadway.

[289] Messrs. Goldenson and Siegel indicated that a 25-year plan which would include the technical center and adequate office space is a minimum basis for starting the project. A logical viewpoint would be to start at Columbus Avenue and work eastward eventually demolishing everything in order to ultimately create a modern, integrated office and technical facility. In this plan News and WABC Local would be self-contained in their own areas and not spread out as shown in the present plan.

A major good point in the presentation is the fact that scenery building, scenery handling and studio floors are all located on the same level. However, Mr. Goldenson felt that an audience walking up several steps in order to get into a studio is in effect putting an obstacle in the way of the audience.

I think that any comment at this time regarding the Austin presentation is rather superfluous in view of the new guidelines set forth by Messrs. Goldenson and Siegel.

FREDERICK J. SCHUHMANN.

[Federal Communications Commission Exhibit No. AR–20; presented by American Broadcasting Co.]

[290] JULY 20, 1966.

To Mr. Simon B. Siegel.
From Frank Marx.
Subject: *New York Production Center.*

You have asked for comments on the Austin Company "Proposed Production Center New York City."

The report, to the extent possible, reflects the requirements of the several departments interviewed as noted in the series of minutes incorporated in the report. It appears to reflect the

requirements of individual departments rather than to express a long range view for the development of our 66th Street property. It reads as an expedient solution to immediate problems rather than a total solution to a long range goal.

For example, Austin proposes that Building "B" (TV–1/2) and 7 West 66th Street remain as part of the long range development. Although TV–1 and TV–2 are adequate studios, they do not represent optimum size or optimum ancillary features of modern television studios. Even though 7 West 66th Street provides useful office space, the building must not be considered a permanent part of a long range multimillion-dollar development. These two buildings will serve for a period of years during the development of the more westerly portion of our plot. When this development is capable of handling the TV–1/2 load, these buildings should then be demolished to make way for a modern structure. Long range planning must take this into account now.

Previous long range studies for the development of the 66th Street plot have always considered that at some time in the future, a multistory tower office building would occupy the frontage on Columbus Avenue between 66th and 67th Streets. Studios and service buildings were to be erected immediately in back of the office building continuing to the apartment buildings on the east side of the plot. All service areas, i.e., garages, scenery, shops, etc. would be under ground. Operating requirements, such as technical, film, and other engineering/mechanical functions, would occupy the technical services building, similar to the Hollywood structure.

[291] The single most important factor of the earlier developments placed all studios at ground level but at the same time provided long range expansion, if necessary, by building vertically.

The 1966 plan shows studios stacked and of inadequate size for current television programming. They further require vertical movement of scenery and people. The plan furthermore allows for limited expansion and, as a matter of fact, would lock in several important departments without providing for logical modular long range development.

[365]

[Exhibit AR 25A]

Broadcast operations and engineering

SUMMARY

[Nov. 4, 1966, pending project report]

Pending project description	Total project cost	1966 quarterly cost (thousands)	1967 quarterly cost (thousands)	1968 quarterly cost (thousands)
New York	$29,374,500	$1,191,000	$16,192,000	$11,991,500
Hollywood	21,130,000	50,000	11,080,000	10,000,000
TV Owned Stations	3,604,000	89,000	2,935,000	580,000
Radio Owned Stations	386,400	28,400	158,000	200,000
Anticipated Small Capital Equipment Items Normally Replaced or Added Within A Calendar Year (See Exhibit "A")	1,800,000	600,000	600,000	600,000
TV News Dept. Projects (800,000 515,000)	1,315,000		1,315,000	
Grand total	57,609,900	1,958,400	32,280,000	23,371,500

[366]

NEW YORK

A. New Technical Bldg. (10 floors):				
1. Construction	5,000,000	500,000	2,500,000	2,000,000
2. Routing Switcher	750,000	50,000	280,000	420,000
3. PGM Assembly Control Room	425,000		295,000	130,000
4. Net Control Room #1	425,000		295,000	130,000
5. Net Control Room #2	525,000		265,000	260,000
6. Transmission Equipment	750,000		375,000	375,000
7. New Telecine Equipment area—Purchase four (4) color film chains, accessories and move present color film chains	600,000		50,000	550,000
8. New Videotape and Film Recording Area—Purchase (4) new color videotape recorders, accessories and move present videotape and film recorders	600,000		50,000	550,000
9. Film Processing Equipment—Two (2) Systems	200,000		100,000	100,000
10. Relocation of both Network and Local Film Services	100,000			100,000
11. Relocation of TV Maintenance and Engineering Lab	75,000			75,000
12. Furniture, fixtures and telephones for entire new building	500,000			500,000
13. Moving of personnel to new building (Broadcast Operations & Engineering and others)	50,000			50,000

Broadcast operations and engineering—Continued

[367] NEW YORK—Continued

[Nov. 4, 1966, pending project report]

Pending project description	Total project cost	1966 quarterly cost (thousands)	1967 quarterly cost (thousands)	1968 quarterly cost (thousands)
Interim "B" Basement Operation Until Completion of New Building Above:				
(a) Preparation of "B" Basement area for interim expansion of technical facilities including:				
1. Relocate local Film Services				
2. Program Assembly Control area				
3. Videotape Recording area				
4. Color Film Chain area				
5. Video Switching area. (Note: Studio TV-C remains in service):				
Construction $265,000		200,000	65,000	
Elec. Tech 85,000		10,000	75,000	
Total	350,000			
(b) Interim Pgm. Assembly Control Room (TV-6)	425,000	125,000	300,000	
(c) Temporary Network Control (TV-4)	165,000	25,000	140,000	
d) Temporary Network Control (TV-5)	165,000		165,000	
[368]				
(e) Purchase four (4) new VR-2000 color video recorders to support color studios by the fall of 1967 and to lower down time during the high-banding of TR-22 video recorders @ $130,000	520,000		520,000	
(f) Purchase four (4) new color film chains to support color studios by the fall of 1967 @ $130,000	520,000		520,000	
C. TV Studios:				
(1) Colorize Studios TV-1 and TV-2:				
Technical $3,000,000				
Construction 1,000,000				
Total	4,000,000			
(2) Colorization of 53rd St. Studio (TV-16)	500,000		500,000	
(3) Colorization of Elysee Theatre (TV-15)	800,000		800,000	
(4) Interim Color @ Colonial Theatre (TV-17)	650,000		650,000	
(5) Ritz Theatre to continue as a black and white studio				

Broadcast operations and engineering—Continued

[369] NEW YORK—Continued

[Nov. 4, 1966, pending project report]

Pending project description	Total project cost	1966 quarterly cost (thousands)	1967 quarterly cost (thousands)	1968 quarterly cost (thousands)
D. Technical Support Equipment:				
1. High-band modification kits for 16 TR-22 videotape recorders @ $14,000 each for New York Tape Room	224,000	....	....	....
2. High-band modification kits for 4 TR-22 videotape recorders @ $14,000 each for the Washington News Bureau	56,000	....	....	....
3. Note: If RCA cannot supply functional high-band kits, 12 video recorders will have to be ordered in 1967 and 8 in 1968 so that RCA TR-22 recorders can be phased out of the tape rooms in New York and Washington News Bureau @ $130,000	2,600,000	....	1,560,000	1,040,000
4. Two (2) Color Kine Recorders @ $150,000	300,000	....	25,000	275,000
Vid-Film Unit, Livingston Lab, England @ $145,000	725,000	....	200,000	525,000
If first prototype system successful, it is estimated four (4) additional systems may be required.				
[370]				
E. Network Mobile Units:				
1. One self-propelled and self-powered color mobile unit with a basic complement of four (4) color cameras expandable to six (6) to be assigned to the following locations:				
KGO-TV, San Fran. $800,000	....	....	....	....
WBKB-TV, Chicago 800,000	....	....	....	....
WXYZ-TV, Detroit. 800,000	....	....	....	....
Wash. TV News Bur. 1,000,000	....	....	....	....
Total	3,400,000	....	1,800,000	1,600,000
F. 1968 Political Conventions & Olympics:				
1. Eight (8) portable live color cameras	2,016,000	85,000	880,000	1,051,500
2. Two (2) color film chains @ $90,000	180,000	....	....	180,000
3. Two (2) color video recorders @ $115,000	230,000	....	....	230,000
4. Portable transmission & monitoring equip	500,000	....	400,000	100,000
5. Communications van	200,000	....	150,000	50,000
6. Two (2) portable field video switching systems @ $100,000	200,000	....	200,000	....
7. Microwave equipment 20 systems @ $15,000	300,000	....	100,000	200,000

Broadcast operations and engineering—Continued

[371] NEW YORK—Continued

[Nov. 4, 1966, pending project report]

Pending project description	Total project cost	1966 quarterly cost (thousands)	1967 quarterly cost (thousands)	1968 quarterly cost (thousands)
F. 1968 Political Conventions, etc.—Con.				
8. RF Communications equip. for TV Eng. and TV News	75,000	....	75,000	....
9. Radio equipment required for 1968 Political Conventions	50,000	....	50,000	....
G. General Field Equipment:				
1. Replacement of obsolete field amplifiers and accessories	48,000	....	48,000	....
2. Radio equipment for Apollo space shots	20,000	15,000	5,000	....
3. Radio RF equipment for special events—golf, horse racing, football	8,000	4,000	4,000	....
4. Radio equipment for 1966 Elections	7,000	7,000	....	....
H. General Projects:				
1. NY-1040 supplement for additional tech. equip. and construction for Network Radio at Wash. News Bureau "Bank Space"	330,000	....	....	....
Technical $83,000	....	....	83,000	....
Construction 247,000	....	100,000	147,000	....
2. NY-1113 supplement for WABC Radio at 1330 Building	70,000	70,000	....	....
3. New Antenna Ground System for Lodi AM transmitter	20,000	....	20,000	....
[372]				
I. Ultimate Development of ABC 66th Street Site:				
1. New Network & Local TV Studios	....	....	....	....
2. Production Services	....	....	....	....
New York Totals	29,374,500	1,191,000	16,192,000	11,991,50

[373] HOLLYWOOD

Pending project description	Total project cost	1966 quarterly cost (thousands)	1967 quarterly cost (thousands)	1968 quarterly cost (thousands)
A. New Hollywood Technical Building	820,000	....	820,000	....
a. Construction				
1) Provide a 60' x 120' addition to present Tech. Bldg. basement and two floors.				
2) Alter existing 1st floor Tech. Bldg.				
b. Routing Switcher	750,000	50,000	280,000	420,000
c. Combination program assembly and Net Control Room #1	750,000	....	375,000	375,000
d. Net Control Room #2	525,000	....	265,000	260,000
e. Local Break Control Room	500,000	....	250,000	250,000
f. Transmission equipment	750,000	....	375,000	375,000

Broadcast operations and engineering—Continued

[373] HOLLYWOOD—Continued

[Nov. 4, 1966, pending project report]

Pending project description	Total project cost	1966 quarterly cost (thousands)	1967 quarterly cost (thousands)	1968 quarterly cost (thousands)
g. New Telecine equipment area, purchase four (4) color film chains, accessories and move present chains	600,000	....	50,000	550,000
h. New video tape and film recording area—purchase four (4) new color videotape recorders, accessories, and move present videotape and film recorders	600,000	....	50,000	550,000
i. Furniture, fixtures and telephones for Technical Building	50,000	....	50,000	....
[374]				
B. TV Studios				
1. Colorization of Studio "D"				
Technical $1,680,000	....	....	1,680,000	....
Construction 640,000	....	....	640,000	....
Total	2,320,000	....	....	....
2. Colorization of Studio "A"				
Technical $1,200,000	....	....	1,200,000	....
Construction 150,000	....	....	150,000	....
Total	1,350,000	....	....	....
3. Colorization of Studio "B"				
Technical $1,200,000	....	....	....	....
Construction 160,000	....	....	....	....
Total	1,360,000	....	680,000	680,000
C. Technical Support Equipment				
1. High-band modification kits for 14 TR-22 Videotape Recorders @ $14,000 each	196,000	....	....	....
2. Note: If RCA cannot supply functional high-band kits, 8 video recorders will have to be ordered in 1967 and 6 in 1968 @ $130,000	1,820,000	....	1,040,000	780,000
3. Two (2) color kine recorders @ $150,000	300,000	....	25,000	275,000
[375]				
D. *Mobile Units*				
One (1) self-propelled and self-powered color mobile unit with a basic complement of four (4) color cameras expandable to six (6) for Network and KABC-TV use	800,000	....	800,000	....
E. *General Projects*				
1. Emergency power generator for KABC Radio	27,000	....	27,000	....
2. Remote field equipment for Tom Harmon Sports Show	8,000	....	8,000	....
3. Audio/video input equipment at Mt. Wilson	30,000	....	30,000	....
4. Pulse distribution equipment	40,000	....	40,000	....

Broadcast operations and engineering—Continued

[375] HOLLYWOOD—Continued

[Nov. 4, 1966, pending project report]

Pending project description	Total project cost	1966 quarterly cost (thousands)	1967 quarterly cost (thousands)	1968 quarterly cost (thousands)
F. *Further Development of ABC-TC Hollywood Property*				
1. Construction of a new network studio.				
Construction....... $2,800,000	....	....	1,400,000	1,400,000
Technical.......... 2,200,000	....	....	200,000	2,000,000
TOTAL....................	5,000,000	....	....	....
2. Extension of Service Bldg..........	890,000	....	445,000	445,000
3. Terrace parking, parking lot lights, guard house and landscaping.....	160,000	....	....	160,000
[376]				
4. Add two stories to the existing Administration Building................	800,000	....	....	800,000
5. Renovate Bldg. #25 for offices and interim expansion of Studio "F"...	150,000	....	....	150,000
6. Expand and refurbish executive dining room and new coffee shop...........	330,000	....	....	330,000
7. Central heating, refrigeration, piped gas and water.....................	400,000	....	200,000	200,000
Total............................	$21,130,000	$50,000	$11,080,000	$10,000,000

[377] SUMMARY—TELEVISION OWNED STATIONS

	Total project cost	1966 quarterly cost (thousands)	1967 quarterly cost (thousands)	1968 quarterly cost (thousands)
Detroit—WXYZ-TV..........................	$1,104,000	....	$844,000	$260,000
Chicago—WBKB-TV..........................	946,000	....	926,000	20,000
San Francisco—KGO-TV....................	1,554,000	$89,000	1,165,000	300,000
Total................................	3,604,000	89,000	2,935,000	580,000

Broadcast operations and engineering—Continued

[378] DETROIT—WXYZ-TV-OWNED STATION

Pending project description	Total cost of project	1966 quarterly cost (thousands)	1967 quarterly cost (thousands)	1968 quarterly cost (thousands
1. Purchase two (2) Ampex VR-2000 color high-band recorders to replace present two (2) B&W Ampex VR-1000 recorders by January 1967 @ 130,000 each	$260,000		$260,000	
2. High-band modification kits for 2 TR-22 video tape recorders @ $14,000, total 28,000				
3. Note: If RCA cannot supply functional high band kits, two (2) Ampex VR-2000 color recorders will have to be purchased by January 1968 @ 130,000 each	260,000			$260,000
4. Colorize studio "B" with three (3) color cameras by June 1967	450,000		450,000	
5. An additional color film island complete by August 1967	130,000		130,000	
6. DET-99 weather recorder	4,000		4,000	
Total	1,104,000		844,000	260,000

[379] CHICAGO—WBKB-TV-OWNED STATION

Pending project description	Total cost of project	1966 quarterly cost (thousands)	1967 quarterly cost (thousands)	1968 quarterly cost (thousands
1. High band modification kits for four (4) TR-22 videotape recorders @ 14,000 each; total 56,000.				
2. Note: If RCA cannot supply functional high band kits four (4) Ampex VR-2000 should be purchased by February 1967 @ 130,000 each	$520,000		$520,000	
3. Colorize studio "C" with two (2) color cameras by July 1967	300,000		300,000	
4. Two (2) MAG stripe modification kits for TP-6 film projectors & one (1) Mark V zoom lens	3,000		3,000	
5. Vectorscope & directional couplers for TV transmitter	3,000		3,000	
6. Replacement of control room monitors	25,000		25,000	
7. Video equalizers & amplifiers	40,000		40,000	
8. New camera pedestals & pan heads	21,000		21,000	
9. Master clock system	14,000		14,000	
10. Remote control of the TV transmitter	20,000			$20,000
Total	946,000		926,000	20,000

Broadcast operations and engineering—Continued

[380] SAN FRANCISCO—KGO-TV-OWNED STATION

Pending project description	Total cost of project	1966 quarterly cost (thousands)	1967 quarterly cost (thousands)	1968 quarterly cost (thousands)
1. One (1) new color film camera for island #3 Jan 1967	$65,000	....	$65,000	....
2. One (1) completely new color film chain by 1967	130,000	....	130,000	....
3. Replace present two (2) Ampex VR-1000 B&W recorders with new Ampex VR-200 by Jan 1967 @ 139 130,000 each	260,000	....	260,000	....
4. High band modification kits for two (2) TR-22 videotape recorders @ 14,000 each, total, 28,000.				
5. Note: If RCA cannot supply functional high band kits by Jan 1967, two (2) Ampex VR-2000 will have to be ordered @ 130,000 each	260,000	....	260,000	....
6. Two (2) color cameras	250,000	....	250,000	....
7. Three (3) color cameras by June 1968	300,000	....	....	$300,000
8. Sutro tall tower project preliminary developmental cost for tower design & antenna configuration estimated ABC optimum share 250,000	250,000	$50,000	200,000	....
9. Three (3) film screening projectors (Jan)	5,000	5,000	....	....
10. Motorola two-way radio equipment for KGO-TV	9,000	9,000	....	....
[381]				
11. News film equipment	20,000	20,000	....	....
12. Spare headwheel panels for TR-22 video tape recorders	5,000	5,000	....	....
Total	1,554,000	[illegible],000	1,165,000	300,000

[382] SUMMARY—RADIO OWNED STATIONS

Detroit	$8,000	....	$8,000	....
Chicago WLS & radio network	24,900	$24,900	....	....
San Francisco—KGO-radio	3,500	3,500	....	....
Pittsburgh—KQV-radio	350,000	....	150,000	$200,000
Total	386,400	28,400	158,000	200,000

[383] DETROIT—WXYZ-RADIO-OWNED STATION

WXYZ radio test equipment	$3,000	....	$3,000	....
Radio equipment for traffic helicopter	5,000	....	5,000	....
Total	8,000	....	8,000	....

Broadcast operations and engineering—Continued

[384] CHICAGO—WLS AND RADIO NETWORK-OWNED STATION

	Total cost of project	1966 quarterly cost (thousands)	1967 quarterly cost (thousands)	1968 quarterly cost (thousands)
CH-163 wave form transmission measurement equipment	7,950	7,950		
Ampex AG-350 audio recorder	2,350	2,350		
Test equipment for WLS studios and transmitter	5,600	5,600		
Radio network news cartridge tape production	9,000	9,000		
Total	24,900	24,900		

[385] SAN FRANCISCO—KGO-RADIO

Emergency power at Mt. Sturo for Mosley radio link	3,500	3,500		
Total	3,500	3,500		

[386] PITTSBURGH—KQV-RADIO-OWNED STATION

Estimate on new KQV-Radio facilities including offices, studios, & technical equipment (technical & construction estimate)	350,000		150,000	200,000
Estimated project completion date 3rd qtr.				
Total	350,000		150,000	200,000

[387] Exhibit A.—Annual Small Capital Equipment

CATEGORIES OF EQUIPMENT ITEMS THAT WILL FALL WITHIN AN ANNUAL EQUIPMENT REPLACEMENT BUDGET

A. TERMINAL EQUIPMENT

- Audio Amplifiers
- Pulse Distribution Amplifiers
- Video Distribution Amplifiers
- Processing Amplifiers
- B&W Video Monitors
- Color Video Monitors
- Oscilloscopes
- Vectorscopes
- Test Signal Generators
- Color Bar Generators
- Colorplexers

Sync Generators
Video Patch Panels, Plugs & Cords
Audio Patch Panels, Plugs & Cords
Equipment Racks & Console Housings
Remote Control Devices
Vendor Modification Kits to up-date present equipment
Tape Cartridge Units
Studio/Field Remote Amplifiers

B. STUDIO/FIELD EQUIPMENT
TV Camera Lens
TV Camera Friction Heads
TV Camera Pedestals and Tripods
TV Camera Cables, Plugs & Connectors
Headsets and Intercom Equipment
Audio Tape Recorders
R. F. Microphones
Walkie-talkie Equipment

C. FILM EQUIPMENT
Screening Projectors
Editing Equipment such a Moviolas, shelves, benches, splicers, etc.

D. TOOLS (SAWS, DRILLS, ETC.)
TV Maintenance
Radio Maintenance
Production Services

E. TV AND RADIO TEST EQUIPMENT
Replacement Only

F. PRODUCTION SERVICES
Studio Lighting Fixtures
Miscellaneous Studio Service Equipment Items

Total $600,000.

[389] EXHIBIT "B"

Estimated cost for one complete color TV camera chain

Qty	Description	Amount
1	Marconi Mark VII Color Camera Chain	$85,000
	To include:	
	Camera Head with Tilting Viewfinder	
	Camera Control Unit	
	10:1 Fully Servoed Zoom Lens	
	Remote Control Panel	
	Encoder	
	Module Extender Board	
	4 Plumbicon Tubes	
	100 Ft. Camera Cable	
1	RM 529 Oscilloscope	1,100
1	RLB 14 14" Monochrome Monitor	455
1	CYA/17RS 17" Color Monitor	2,450
1	PN-6833BCL/Q TV Products Pneumatic Pedestal	2,445
1	HFCII Houston Fealess Cam Head	1,045
1	BR-84A Rack	351
1	Lens Range Extenders (Est.)	2,200
	Subtotal	95,046
	Tax and Transportation	4,954
	Grand total	100,000

[390] EXHIBIT "C"

Estimated cost for one completely color equipped video tape recorder

Qty	Description	Amount
1	Videotape recorder/reproducer complete with items listed in Attachment A	$62,670
1	Amtec Time Element Compensator	7,720
1	Colortec—Direct Color Recovery System	10,725
1	Color kit for Processor	810
1	Deviation Module SMPTE Color	360
1	"High Band" R/PB Kit	1,970
1	Electronic Editor	4,650
1	Editec—Control System	7,500
1	One Line Delay Chassis	3,000
2	Spare Video Heads 10 Mil @ 2,750 ea.	5,500
	Subtotal	104,905
	Tax and Transportation	8,095
	Installation	5,200
	Contingency	11,800
	Grand total	130,000

[391] EXHIBIT "D"

Estimated costs for a typical color film island

Qty	Description	Amount
1	RCA TK-27 Color Film Chain	$55,635
1	RCA TP-66 16MM Color Film Projector	14,320
1	RCA TP-7 35MM Color Slide Projector	5,167
1	GPL-35MM Color Film Projector	21,000
1	TP-15 Multiplexer	6,400
	Subtotal	102,582
	Miscellaneous Cable and Connecters	3,500
	Subtotal	106,082
	6% Tax and Transportation	6,918
	Subtotal	113,000
	Electrical Installation	6,000
	Subtotal	119,000
	Contingency	11,000
	Grand total	130,000

[Federal Communications Commission Exhibit No. AR-31; presented by American Broadcasting Co.]

STATUS REPORT AND FUTURE PLANS, FEBRUARY 1967 [1]

[410] COLOR CAMERA STATUS AS OF FALL 1967

The present status of color cameras in operation within the ABC Network and local TV stations consists of the following:

16 Color Cameras in Mobile Operations
52 Color Cameras in Network and O&O Studios
2 Under Engineering Evaluation
—
70 Color Cameras in Operation

There are currently 70 color and 165 Black and White cameras in our current operation.

It is estimated that 76 additional color cameras will be required to equip current and future studio and mobile unit requirements.

[1] Status Includes All RCF's Approved to January 20, 1967.

[411]

Chart I

Color camera status—as of fall '67

RCA TK-41	Phillips PC-60	Phillips PC-70	GE PE-250	RCA TK-43	Marconi Mark VIII
6 mobile	4, TV-1 (NY)	3, Studio F (Hwd)	4 mobile	3, Studio C&D (SF)	2 (for evaluation).
6 mobile	5, Studio D (Hwd)	3, TV-A (NY)	3, Studio B (Ch)	3, Studio C (Det.)	
			4, TV-11 (NY)		
4 mobile		2, TV Field (NY)	3, Studio (Wash)		
	5, Studio E (Hwd)		4, 1313 Vine (Hwd)		
		6, Palace (Hwd)			
16	14	14	18	6	2

Note.—Total cameras in system: 70 color+165 B&W. Estimated Additional Color Cameras Needed: 76.

[412] NETWORK VIDEOTAPE STATUS

The present status of ABC Network Videotape Recorders consists of the following:

26 Hi Color Recorders
26 Lo Color Recorders
4 Black and White Recorders
—
56 Total Presently in Operation

It is estimated that we will require an additional 14 Hi Color Videotape Recorders within the next two years due to expansion of our needs.

Due to the recent introduction of Hi Color Videotape recording, we are now faced with the problem of either updating 26 of our present Lo Color Videotape Recorders or outright replacements of these 26 recorders with new Hi Color Recorders. It should be noted that if RCA's Modification Program is successful, we can do this for approximately $624,000. If RCA cannot supply to us workable modification kits to Hi Color update our 26 recorders, we are faced with the replacement of these units with brand new Ampex Color Recorders for an estimated price of $3,380,000. It is our belief that RCA will be able to demonstrate Hi Color but the capability of the updated machines will not be equal to the new machines. We will then review and determine how many machines we should replace.

[413] CHART 2

Network videotape status

	Present			Future
	Hi Color	Lo Color	Black & White	Hi Color
New York:				
Plant	9	10		8
Field	2	2	2	
Hollywood:				
Plant	13	5		4
Field		4	2	
Washington:				
Plant		4		
Field				
Chicago:				
Plant	2	1		
Field				
Olympics & conventions				2
Total	26	26	4	14

Cost data: 14 Future @ $130,000=$1,820,000.
26 Hi Band Conversion @ $24,000=$624,000.
or
26 New Hi Band @ $130,000=$3,380,000.

[414] NETWORK FILM CHAINS, STATUS

The present status of ABC Network Film Chains consists of the following:

22–Color
15–Black and White
—
35–Total

We will require 14 additional Color Film Chains for full color operations.

[415] CHART 5

Network film chains—Status

	Present		Future
	Color	Black & White	Color
New York	10	8	8
Hollywood	6	6	4
Washington	3	1	
Chicago	3		
Olympics & Conventions			2
Total	22	15	14

Cost data: 14 Future @ $130,000=$1,820,000.

[416] MOBILE UNITS

The present status of ABC Network and TV Owned Stations' Mobile Units consists of the following:

8 Black and White Camera Mobile Units
2 B&W Videotape Mobile Units
4 Color Camera Mobile Units
3 Color Videotape Mobile Units

It is our estimate that we will need:

5 Color Camera Mobile Units
1 Color Videtape Mobile Unit

[417] CHART 4

Mobile units

	Present		Proposed
	Black and white	Color	
Hollywood	8C/2T	6C/2T	4C
			$800,000
New York	6C/2T	4C	2C
	6C	6C/2T	
	2C	4C	
		2T	$350,000
Washington	4C	None	4C/2T
			2C
			$1,600,000
Detroit	5C	None	
Chicago	6C	None	4C
			$800,000
San Francisco	4C	None	
Total			$3,550,000

C—Camera.
T—Tape.

[418] NEW YORK STUDIO—STATUS AND PROPOSED COLORIZATION

SCHEDULE

The present New York Studio compliment consists of nine studios, two of which are colorized.

Schedules have been prepared for the colorization of six of the remaining studios over the next four-year period. The seventh studio will be taken out of service.

[419] **CHART 5**

Network, New York—Status

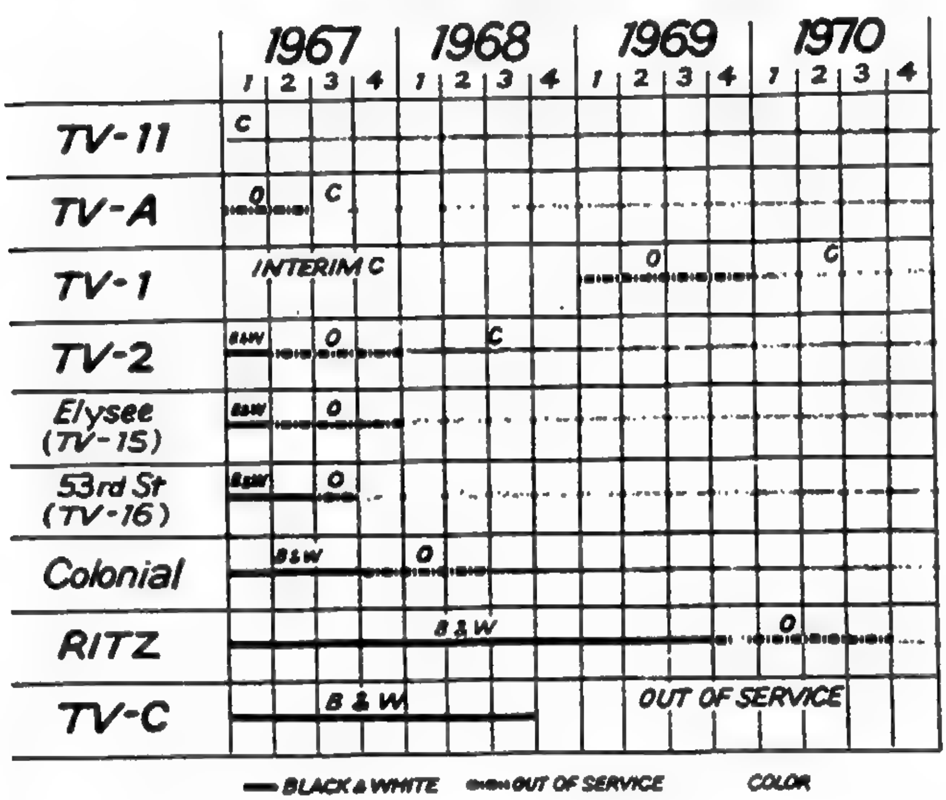
	Use	Color Status	Proposed
TV-A	Local	Color (7/67)	
TV-1	All Purpose	Color (interim)	Color.
TV-2	All Purpose	B&W	Color.
TV-C	Fill & Emergency	B&W	Take out of Service.
TV-11	News	Color (1/67)	
TV-15	Theater	B&W	Color.
TV-16	Drama	B&W	Color.
Ritz	Theater	B&W	Color.
Colonial	Theater	B&W	Color.

(PROPOSED TO BUILD NEW STUDIO COMPLEX)

[420] NETWORK, NEW YORK—PROPOSED COLORIZATION

Studio:	*Cost*
TV-1	$2,085,000
TV-2	1,700,000
TV-15	1,222,000
TV-16	535,000
Colonial	3,018,000
Ritz	1,800,000
Total	10,360,000

[Chart 7.—Progress Schedule of New York Studio Colorization]



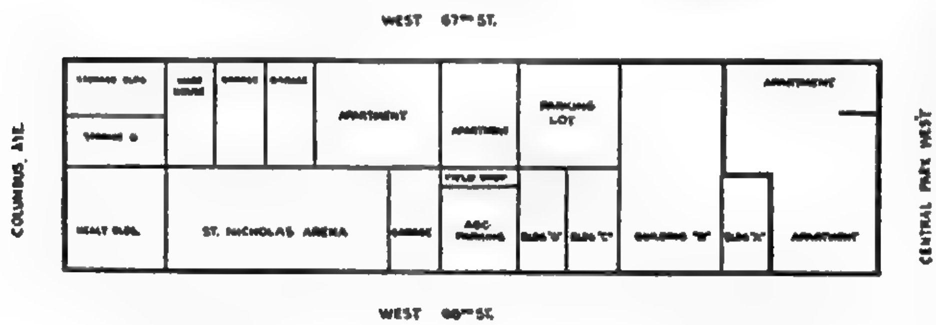
[422] NEW YORK STUDIOS PLANT FACILITIES, PRESENT AND PROPOSED

The New York production facility plant is currently inadequate to meet the present and future requirements for the ABC Network. It is proposed that development of the 66th Street site be undertaken in a two-step program.

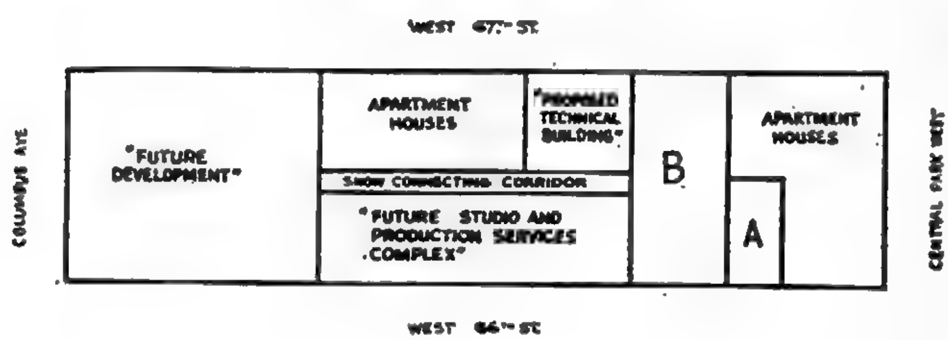
First, the construction and equipping of a 12-story technical operations building; followed by the construction of a production services and studio complex.

The future development of the remaining 66th Street property is beyond the scope of this report.

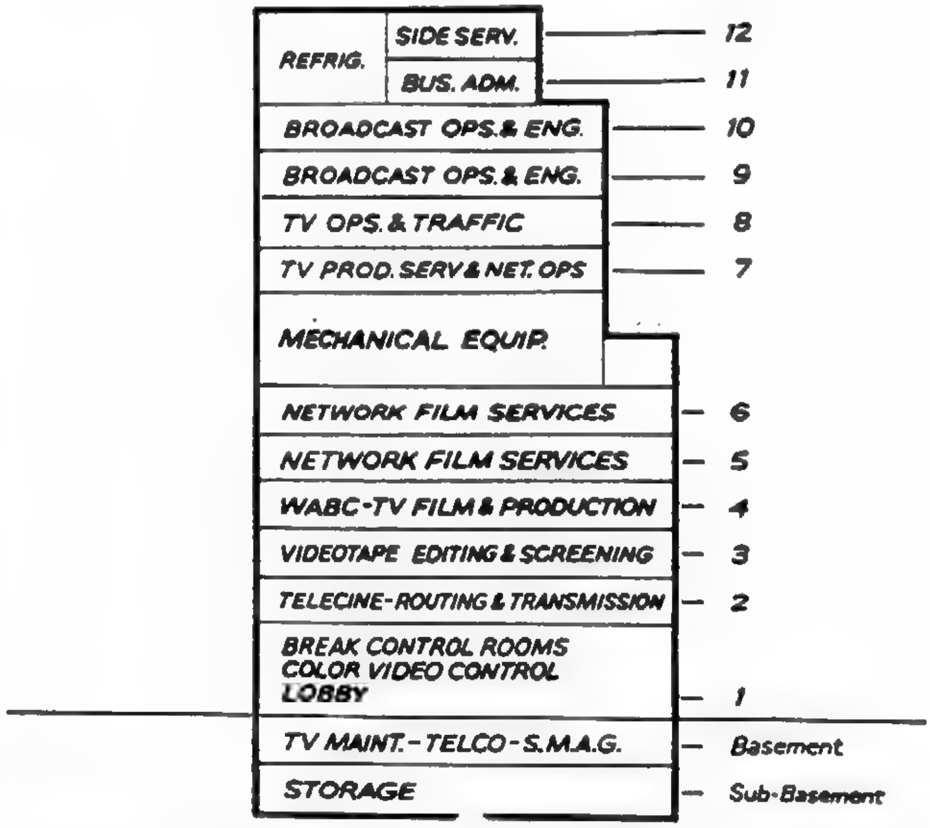
[Chart 8.—New York Plant—(Current)]



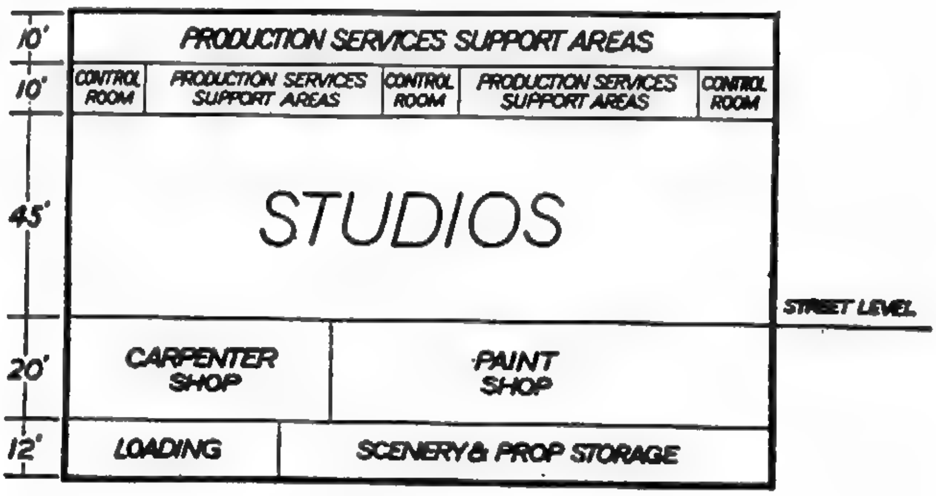
[Chart 9.—Possible Future Development, New York-66th Street Site]



[Chart 10.—Proposed Eng. Service Building, New York]



[Chart 11.—Proposed New York Production Services and Studio Complex]



[427] HOLLYWOOD PLANT FACILITIES, PRESENT AND PROPOSED

Based upon current and projected program needs, further development of the Hollywood plant is required.

There are currently 7 production facilities in Hollywood, 5 of which are color. It is proposed to build 2 additional production facilities and convert one of the remaining Black and White facilities into a rehearsal hall. The other Studio will be colorized by moving the Mobile Control Room from the Local Studio–K over to Studio–A. This new studio complex will require expansion of the Production Services building, new parking facilities and expansion of employee eating facilities.

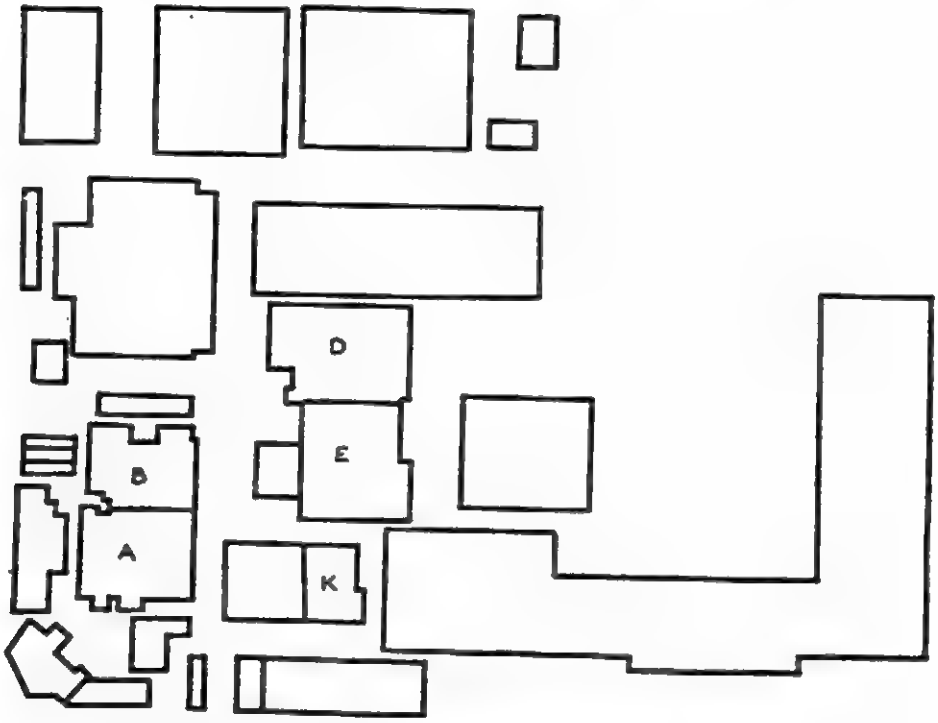
[428] CHART 12

Network, Hollywood—Status

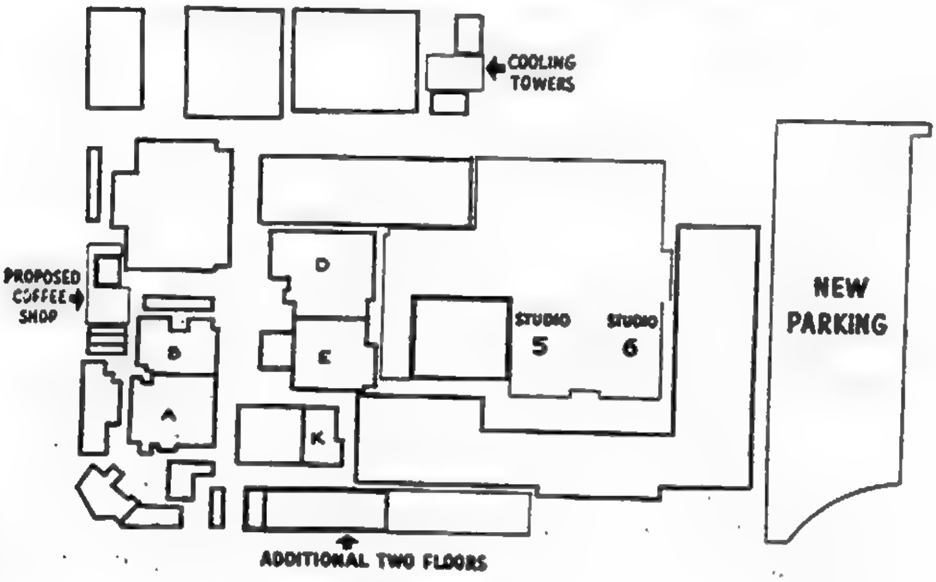
	Use	Color Status	Proposed
TV-A	Drama	B&W	Local Mobile Studio.
TV-B	Drama	B&W	Rehearsal.
TV-D	Theater	Color (8/67)	
TV-E	Theater	Color	
TK-K	Local	Color (Mobile Studio)	
1313 Vine	Theater	Color (4/67)	
Palace	Theater	Color	

(PROPOSED TO BUILD NEW STUDIO COMPLEX)

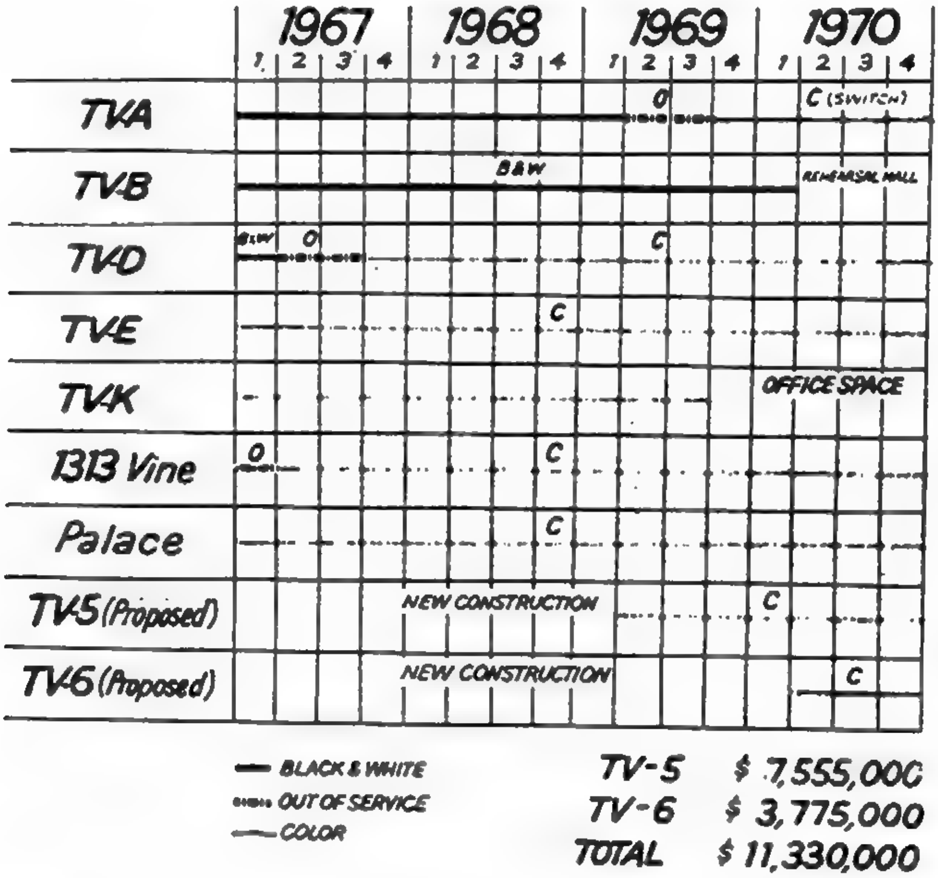
[Chart 13.—Hollywood Plant (Current)]



[Chart 14.—Hollywood Plant (Proposed)]



[Chart 15.—Progress Schedule of Hollywood Studio Colorization]



[432] TECHNICAL SUPPORT, NEW YORK AND HOLLYWOOD

With the eventuality of all our programming going color, our technical support areas will require far more sophisticated techniques than we are now using.

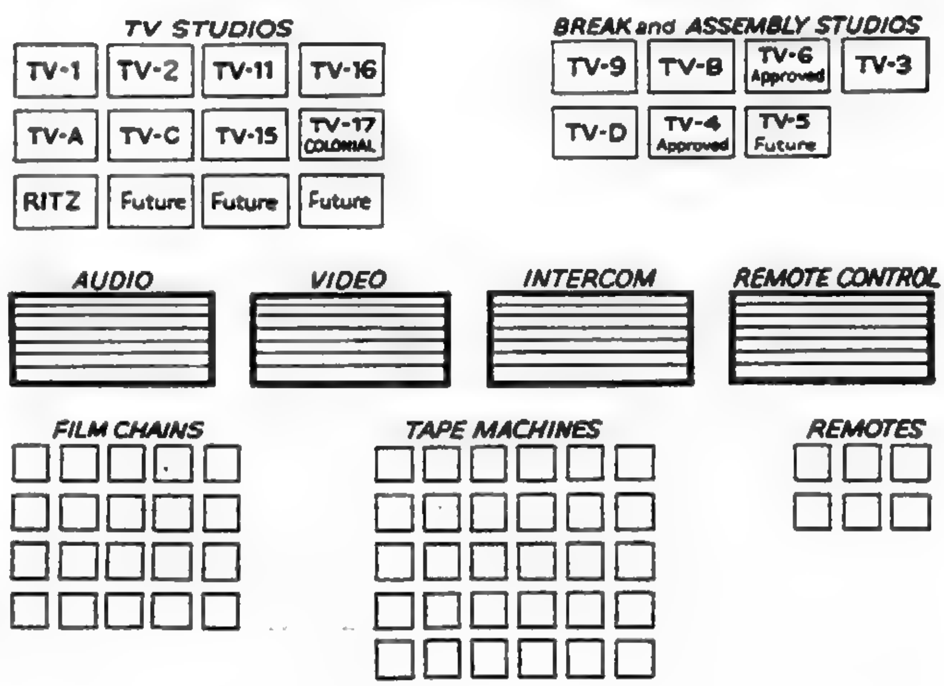
We are now using a Master Control which requires us to use patch cords to patch in audio, video, intercommunications between film and tape machines and studios. We do not have remote control stop-starts from our tape machines and very limited use of it in film. Because of the intricacies of color, all our switching equipment should be limited to a central point which is not the case now.

It is proposed in New York that our current Master Control, which is obsolete and at the same time does not provide us with enough positions, be replaced by a routing switcher (which is equivalent to an up-to-date central switch board); that new control studios be built using the latest in automatic devices and that our entire technical support area be housed in a new building. Such new building will also provide for the necessary air conditioning required for our expanded color equipment and for production studios TV 1 and 2.

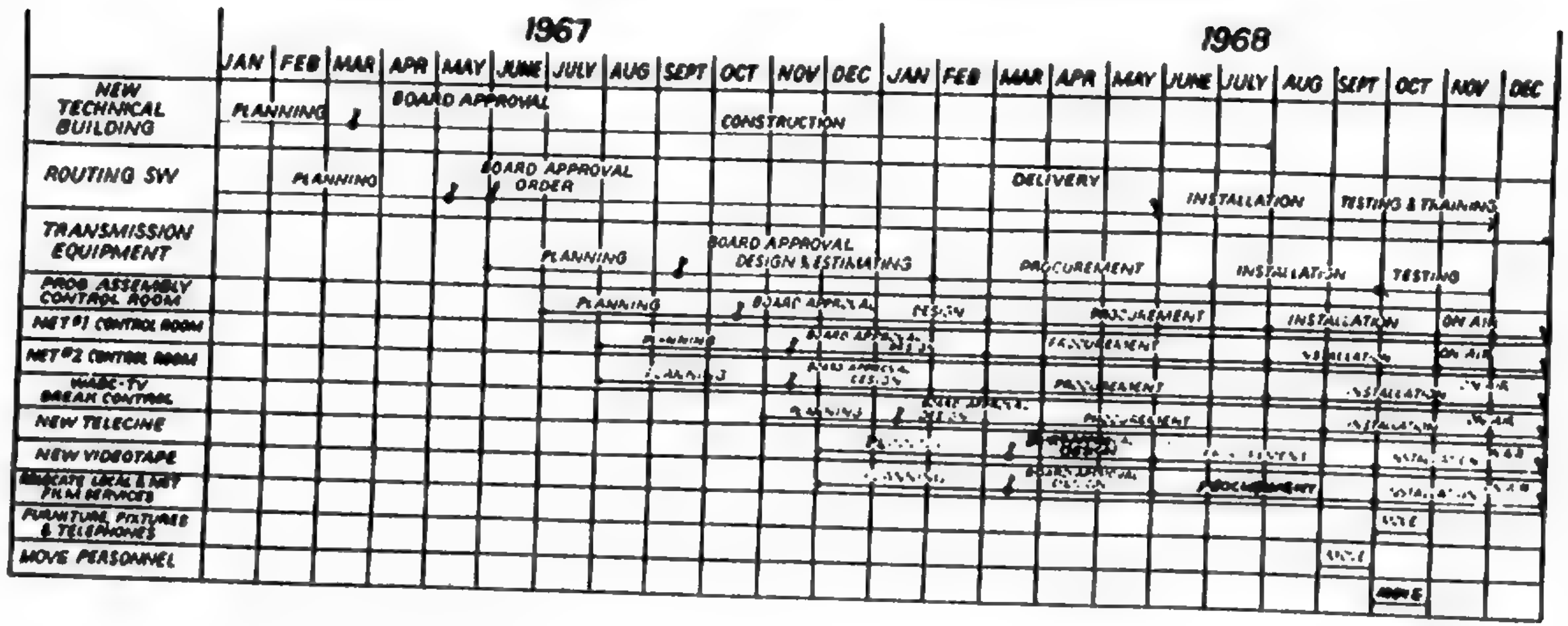
It is also proposed that in Hollywood the current technical building (which now houses administrative people) be expanded physically and a routing switcher, break studios, telecine and videotape be housed in this building.

CBS and NBC in Hollywood and CBS in New York are currently equipped with such facilities. These facilities will be the latest available, will make us more efficient and give us greater capability and flexibility to handle the very complex production techniques of today.

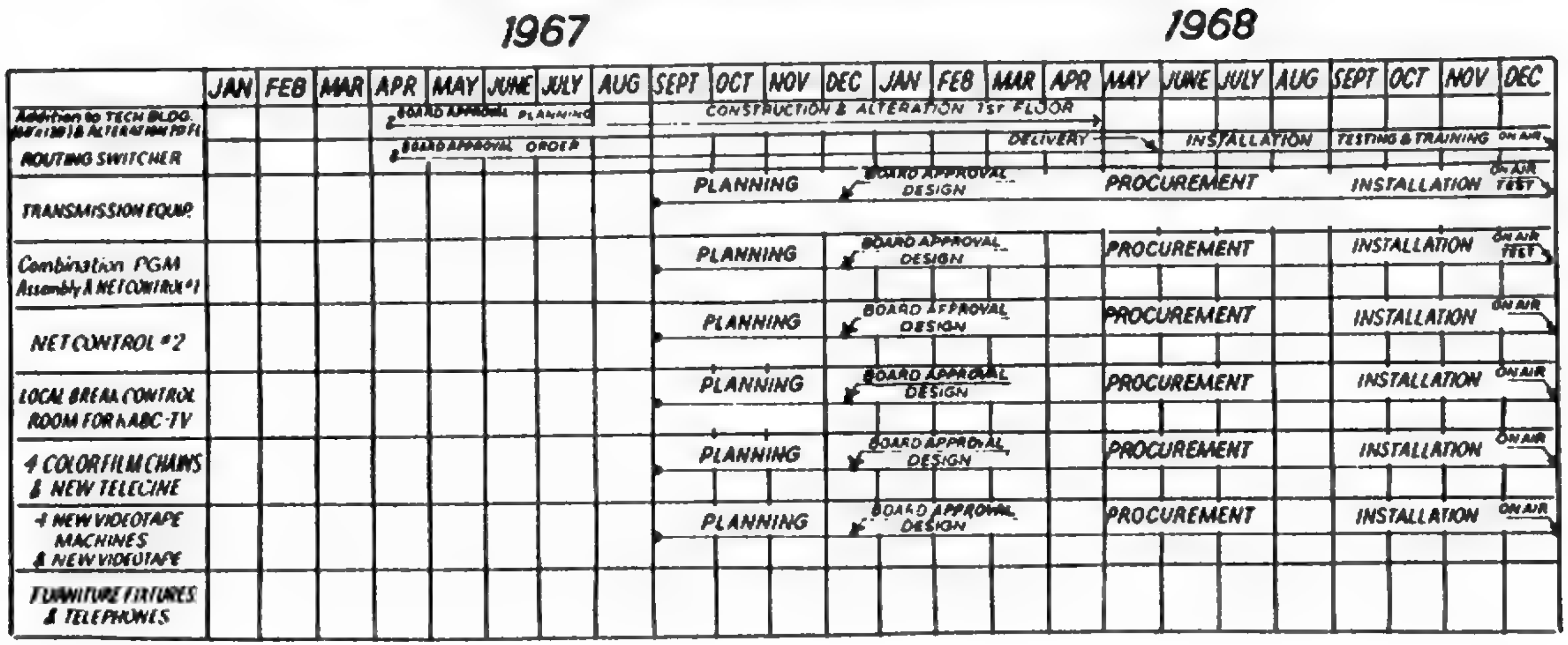
[Chart 16.—Technical Support]



[Chart 17.—New York Technical Building—Project Schedule]



[Chart 18.—Hollywood Technical Building—Project Schedule]



[Chart 19.—Technical Support—New York]

CURRENT	INTERIM	PROPOSED
MASTER CONTROL	SAME	ROUTING SWITCHER + TRANSMISSION EQUIP. (NEW BUILDING)
BREAK STUDIOS TV-8	TV-4	CONTROL ROOM NEW NET #1 NEW BUILDING
TV-D	TV-D (NEW SWITCHER)	MOVE TO NEW BUILDING
TV-9	TV-5 (TO BE APPROVED)	CONTROL ROOM NEW NET #2 NEW BUILDING
SCREENING CONTROL	SAME	MOVE TO NEW BUILDING
	TV-6 PROGRAM ASSEMBLY	NEW PROGRAM ASSEMBLY STUDIOS - NEW BUILDING
TELECINE (8 BASEMENT)	AUGMENT 8 BASEMENT	NEW BUILDING TELECINE
VIDEOTAPE 8 BASEMENT)	AUGMENT 8 BASEMENT	NEW BUILDING - VIDEOTAPE

[Chart 20.—Technical Support—Hollywood]

CURRENT	PROPOSED
MASTER CONTROL	ROUTING SWITCHER & TRANSMISSION EQUIP - (TECH. BUILDING)
BREAK STUDIOS TV-C	NET #1 CONTROL ROOM AND PROGRAM ASSEMBLY COMBINATION IN TECH. BUILDING NET #2 CONTROL ROOM IN TECH BUILDING
TV-K (LOCAL)	NEW LOCAL BREAK CONTROL IN TECH. BUILDING
TELECINE	NEW TELECINE IN TECH. BUILDING
VIDEOTAPE	NEW VIDEO TAPE IN TECH. BUILDING

[438] O&O COLOR STATUS

The three TV owned stations, which are independent of our Network centers in New York and Hollywood, currently have three basic studios each. During the year 1966, one studio at each location has been colorized.

It is the proposal of our local general managers to colorize an additional studio at each location within the calendar year 1966 as follows:

WXYZ-TV—Studio B, Detroit $450,000
WBKB-TV—Studio C, Chicago 250,000
KGO-TV—Studio A, San Francisco 550,000

[439] CHART 21

O & O—Color status

	Current color status	Proposed	Cost
Detroit:			
Studio A	B&W	B&W	
B	B&W	Color	$450,000
C	Color		
Chicago:			
Studio A	B&W	B&W	
B	Color		
C	B&W	Color	$250,000
San Francisco:			
Studio A	B&W	Color	$550,000
C&D	Color		

[440] O&O FILM CHAINS

The present status of owned TV station Film Chains consists of the following:

12 Color
11 Black and White
—
23 Total

We will require 7 additional Color Film Chains for full operations.

[441] CHART 22

O & O Film chains

	Present		Future Color
	Color	Black & White	
WABC-TV (N.Y.)	3	1	2
WXYZ-TV (Det.)	2	4	1
WBKB-TV (Chi.)	2	2	2
KGO-TV (S.F.)	2	3	2
KABC-TV (L.A.)	2	2	
Total	11	12	7

Cost data: 7 Future @ $130,000=$910,000.

[442] **O&O VIDEOTAPE STATUS**

The present status of ABC–TV Owned Station Videotape Recorders consists of the following:

2 Hi Color Recorders
16 Lo Color Recorders
4 Black and White Recorders
—
22 Total Presently in Operation

It is estimated that KGO–TV (San Francisco) will require *two* Hi Color Videotape Recorders this year. This will provide Hi Color at each of our O&O locations.

Due to the recent introduction of Hi Color Videotape Recording, we are now faced with the problem of either updating 16 of our present Lo Color Videotape Recorders now located at our TV Owned Stations or outright replacement of these 16 recorders with new Hi Color Recorders. It should be noted that if RCA's Modification Program is successful, we can do this for approximately $416,000. If RCA cannot supply to us workable modification kits to Hi Color update our 16 recorders, we are faced with the replacement of these units with brand new Ampex Color Recorders for an estimated price of $2,080,000. It is our belief that RCA will be able to demonstrate Hi Color but the capability of the updated machines will not be equal to the new machines. We will then review and determine how many machines we should replace.

[443] CHART 23

O. & O. videotape status

	Hi Color	Present Lo Color	Black & White	Future Hi Color
WABC–TV (N.Y.)	([1])	4		
WXYZ–TV (Det.)	2	2	1	
WKBK–TV (Chi.)	([1])	4		
KGO–TV (S.F.)		2	3	2
KABC–TV (L.A.)	([1])	4		
Total	2	16	4	2

[1] Hi Color at Location.
Cost data: 2 Future @ $130,000=$260,000.
16 Hi Band Conversion @ 26,000=$416,000.
16 New Hi Band @ 130,000=$2,080,000.

[Exhibit AR 39]

[552] THE AUSTIN COMPANY,
ENGINEERS AND BUILDERS,
New York, N.Y., June 20, 1966.

W.O. #2472-R

AMERICAN BROADCASTING COMPANIES, INC.,
1330 Avenue of the Americas
New York, New York.
Attention: Mr. Frank Marx, Vice President.
Re: Proposed Production Center, New York City.

GENTLEMEN: We are pleased to submit, in connection with Letter of Agreement under date of April 16, 1965 and Standard Commission Contract, four copies of a Master Report which sets forth our recommendations for the utilization of the 66th, 67th Street site as a production center.

We trust the subject report will service your requirements and wish to express our gratitude to all participating A.B.C. personnel from whom was received the data which made the assembly of this report possible.

Very truly yours,

THE AUSTIN COMPANY,
JOHN C. BENNETT,
Vice President and District Manager.

[553] MASTER REPORT FOR AMERICAN BROADCASTING COMPANIES INCORPORATED, NEW YORK, N.Y., ON PROPOSED PRODUCTION CENTER, 66TH STREET, 67TH STREET, NEW YORK, N.Y.

[W.O. #2472-R—Submitted June 20, 1966]

[554] TABLE OF CONTENTS

[555] PART I—INTRODUCTION

A. AUTHORIZATION

On April 28, 1965 American Broadcasting Companies Incorporated of New York authorized The Austin Company to prepare, under Standard Commission Contract, a Master Report for the utilization of its New York City site, bounded by 66th Street, 67th Street, Central Park West and Columbus Avenue, as a Television and Radio Production Center.

For brevity American Broadcasting Companies is referred to as A.B.C. and The Austin Company as Engineers.

B. PURPOSE

The purpose of this study is to:

(1) Examine the existing operating and physical plant.

(2) Determine the present and projected requirements to 1975.

(3) Recommend the method by which all operations other than local radio and executive administrative functions be housed on the subject site.

[556] C. SCOPE

The scope of the work included herein is as set forth in a letter under date of April 16, 1965 approved by A.B.C. April 28, 1965 and as revised by letter of April 5, 1966 signed May 5, 1966. In accordance with this the Engineers have developed a program in which is included:

(1) A survey and evaluation of each building on the proposed production center site.

(2) Description of present occupancy of all buildings on the production center site and satellite locations of component operations to be consolidated within the new production center.

(3) Zoning restrictions of site.

(4) Program as set forth in minutes of meeting 1 thru 18.

(5) Recommended Master Plan.

(6) Sequence of construction steps required to achieve recommended solution.

Also included as a supplement to this report is:

(7) Preliminary drawings setting forth the allocation of spaces within "A" Building, per modification of scope, to house a major portion of the news operation.

(8) Preliminary drawings for alteration of three floors at 1926 Broadway.

[557] (9) Preliminary drawings and outline specifications for Building No. 1, the first unit to be constructed on the production center site.

(10) Revised sequence of moves conforming with modified scope.

278-719—67——7

[558] PART II—RESULTS AND RECOMMENDATIONS

A. RESULTS

The results of this study indicate that two major factors are having an adverse effect on A.B.C.'s operational efficiency. These are:

(1) The utilization of out dated buildings on the subject site which, due to present restrictions, results in limited or unoccupied cubage and the over crowding of usable buildings to serve the needs of the production operations.

(2) The splitting of functions, portions of which are presently housed in satellite locations, causing difficult coordination and communication which results in efficiency loss.

B. RECOMMENDATIONS

The recommended solution which is set forth herein will provide the following:

(1) A physical plant located in one of the fastest developing areas in the United States, adjacent to a world [559] renowned cultural center of which A.B.C. is a part.

(2) A production center which when completed will provide for the clients projected growth requirements to the year 1975.

(3) A facility which will, as a result of the grouping and location of functions demonstrated herein, provide for an efficient flow of personnel and materials to service the operations of the production center.

(4) A physical plant of a character consistent with its environment.

NOTE: It is to be noted that the solution presented in the exhibits which follow is based on requirements as set forth in minutes of meetings (1 thru 18) held between the dates of July 1, 1965 and August 2, 1965. These meetings, in which participated representatives of all A.B.C. departments, effected project requirements thru the year 1975.

[560] Due to the dynamics of this industry, space problems requiring immediate solution presented themselves prior to

the completion of this report. In connection with this, Section IV Supplement sets forth the solution of these problems.

Also to be noted is that the solutions presented in Part IV would not interfere, if carried out, with the ultimate master plan as presented in Part II. In addition, on the basis of perhaps a twenty year projection, an office tower could be considered for addition over the planned production center base, consolidating all A.B.C. operations on this most ideal site.

[Excerpt from Exhibit AR 40]

[786] ATTACHMENT No. 14

MISS M. MICHAUD AND GEORGE SEBASTIAN

OCTOBER 29, 1965.

(Estimated cash flow for the 4th quarter of 1965 and the 1st and 2nd quarters of 1966 for all ABC engineering offices. This report supersedes my previous cash flow estimate dated October 22, 1965)

Summary

	1965 4th qtr.	1966 1st qtr.	1966 2nd qtr.
New York	1,446,600	5,025,500	9,969,000
Hollywood	313,800	601,400	1,365,000
Chicago	28,000	153,775	282,915
Detroit	90,000	17,000	35,000
San Francisco	6,400	175,700	317,000
Pittsburgh	7,000	6,500	30,000
Total	1,891,800	5,979,875	11,998,915

GEORGE SEBASTIAN.

GS: fb
CC: Messrs. Barnathan, Owen and Pointer

[787] *Estimated cash flow for the fourth quarter of 1965 and the first and second quarters of 1966, October 29, 1965*

NEW YORK

RCF No.	Description	1965 4th qtr	1966 1st qtr	1966 2nd qtr
NY-528	Bendix Cameras	20,000	27,500	
NY-338	Digital Display Units		46,000	46,000
NY-950	Switching and DA Equipment for NY-MCR	22,000		
NY-979	Four (4) Ampex VR-660 Video Recorders	4,100		
NY-958	Remote/Start/Stop, Union City	11,000	12,000	
NY-1000	Three (3) TK-22 Film Cameras for WABC	16,000		

Estimated cash flow for the fourth quarter of 1965 and the first and second quarters of 1966, October 29, 1965—Continued

[787] NEW YORK—Continued

RCF No.	Description	1965 4th qtr	1966 1st qtr	1966 2nd qtr
NY-1002	Technical Facilities & Elysee Theatre	20,000	20,000	56,000
NY-1008	Electronic Equipment for News Department	20,000	12,000	----------
NY-1009	New transmitting Antenna for WABC-TV @ Empire State Building	25,000	150,000	162,000
NY-1011	Color Film Equipment, Union City	20,000	----------	----------
NY-1013	Three (3) Solid State Sync Gen for Field	27,000	----------	----------
NY-1018	Modification to TV-11 Control Room	9,000	10,000	----------
NY-1020	Projection Equipment @ 450 W. 56th St	39,000	----------	----------
NY-1021	Color Mobile Unit from RCA	14,000	----------	----------
NY-1025	Two (2) Ampex Proc Amps for VR-660's	2,500	----------	----------
NY-1026	Four (4) RCA Color Cameras for ABC Color Mobile Unit	89,000	200,000	----------
NY-1030	Sound Recorders for NY Kinescope Operations	2,500	----------	----------
NY-1033	Test Equipment for NY TV Maintenance	14,000	----------	----------
NY-1034	Three (3) Nagra Recorders, Wash., D.C	2,500	----------	----------
NY-1036	Portable Video Switcher-TV Field	1,000	----------	----------
NY-1038	One (1) Ampex VR-2000, Color Terminal Equipment, and recorder spare modules	53,000	47,000	42,000
NY-1040	Facilities for Wash. News Bureau	----------	208,000	414,000
NY-1041	Two (2) RCA TK-42 Color Cameras for Evaluation	----------	99,000	----------
NY-1042	NY Engineering Lab Test Equipment	13,000	----------	----------
NY-1043	Audio Equipment for NY TV Operations	9,000	----------	----------
NY-1044	NY-11 Sync Interlock System	11,000	23,000	23,000
NY-1055	Audio Equipment for Jimmy Dean	6,000	----------	----------
NY-1056	RF Communications Equipment for News Dept	1,000	----------	----------
NY-1057	Color ATC & Test equipment for Washington	10,000	----------	----------
NY-1059	Modification of "C" Building for Production Services	31,000	31,000	----------
NY-1064	Supering Facilities for TV-1, TV-2, and TV-11	16,000	15,000	----------
NY-1066	Custom sound effects equipment for Production Services	12,000	12,000	----------
NY-1067	Remote Control & Automatic logging equipment for WLS and KGO	5,000	4,000	----------
NY-1071	One (1) Tektronix 529 Scope	1,000	----------	----------
[788]				
NY-1073	Two (2) Phillips Plumbicon Color Cameras for Evaluation	----------	23,000	----------
NY-1076	22 Beckman & Whitley Newsfilm Cameras for News Bureau	----------	130,000	140,000
NY-1084	Film Projection equipment for TV-11	----------	22,000	23,000
NY-1087	Ten Color Monitors for NY Control Room	26,000	----------	----------
NY-1088	15 Portable G.E. Color Receivers for 38th & 39th Floor, 1330 Building	3,000	----------	----------
NY-1089	Two (2) Color Mobile Units & Trailer for existing Color Mobile Unit	101,000	200,000	3,043,000
NY-1090	Motorola Handi Talkies for ABC Radio Network	4,000	----------	----------
NY-1092	7 barber chairs for make-up	2,000	----------	----------
NY-1093	One (1) Colorimatic Projector for Wash. News Bureau	----------	7,500	----------
NY-1101	Two RCA TR-22 Hi Band Kits NY & R	----------	----------	21,000
NY-1104	Five Ampex Color Proc Amps for NY use on space shots	----------	27,000	----------

Estimated cash flow for the fourth quarter of 1965 and the first and second quarters of 1966, October 29, 1965—Continued

[788] NEW YORK—Continued

RCF No.	Description	1965 4th qtr	1966 1st qtr	1966 2nd qtr
NY-1107	Misc. equipment for Union City Network Film Center	....	9,000	....
NY-1108	Three (3) Conrac Color Monitors & terminal equipment for NY Video Tape	....	9,500	....
NY-1109	Camera equipment for News Film Crew in Saigon	....	12,000	....
NY-1111	Two Eastman sound play-back kits and one Bell & Howell 16MM for TV News	4,000	....	....
NY-1113	Technical Equipment for WABC Radio move from 1926 Broadway to new 1330 Building	....	30,000	100,000
NY-1118	Two (2) Magnetic disc video recorders for Sports Programs	....	22,000	....
NY-1120	Additional video/audio equipment required at Colonial Theatre for GT-6 & subsequent Space Shots	10,000	20,000	15,000
NY-1124	Projection room facilities for Screening & Conference Rooms at 1330 Ave. of Americas	....	90,000	89,000
NY-1125	TV Master Antenna & Distribution system for 1330 Building & Screening Control Room at 66th Street Operations Center	100,000	100,000	127,000
NY-1131	Construction of a one-story bldg. on WABC Radio site in Lodi, N.J. to provide space & facilities for TV field shop and mobile units	....	95,000	192,000
NY-1133	Construction of a two-story bldg. at 43 W. 66th St. to provide space for TV Maintenance, Engineering Lab, and technical Assembly Group	....	87,000	300,000
[789]				
	New York Routing Switcher (initially 72 inputs by 45 outputs)	....	71,600	100,000
	Two (2) Network Control Rooms & One (1) Program Assembly Control Room	50,000	100,000	270,000
	Colonial Theatre Colorization (Technical Equipment Only)	....	500,000	2,806,000
	TV-1 Colorization	....	700,000	700,000
	TV-2 Colorization	....	725,000	725,000
	Three (3) Production audio consoles—locations: Elysee Theatre. Studio TV-2, & Colonial Theatre	75,000	....	150,000
	Equipping one (1) New York Studio Facility (black & white) to permit the technical colorization of Studios TV-1, TV-2, and the Colonial Theatre	500,000	1,000,000	300,000
	New York "Flash" B&W Mobile Unit	25,000	50,000	50,000
	Washington "Flash" B&W Mobile Unit	25,000	50,000	50,000
	Alphanumeric Generator for News, Promotion and Sports Depts	....	25,000	25,000
	New York total	1,446,600	5,025,000	9,969,000

[790] HOLLYWOOD

HD-255	Two Video Tape Machines for KABC-TV	....	6,000	....
HD-316	Color Film Equipment for KABC-TV	1,000	....	....
HD-339	New Break Studio for Local & Net Operations	5,000	3,000	....
HD-348	Production Lighting Fixtures for Studio b	1,600	....	....
HD-340	Portable TV Camera Equipment	38,000	....	....

Estimated cash flow for the fourth quarter of 1965 and the first and second quarters of 1966, October 29, 1965—Continued

[790] HOLLYWOOD—Continued

RCF No.	Description	1965 4th qtr	1966 1st qtr	1966 2nd qtr
HD-350	Misc. TV Field Equipment	9,500		
HD-352	Alterations to two (2) buildings to accommodate the IBM Department	1,300		
HD-353	Six additional dressing rooms	1,400		
HD-359	Six additional Video Tape Machines		73,000	72,000
HD-361	Equipment for Baseball, West		5,000	
HD-365	Moseley studio transmitter link for SASC-FM		1,000	
HD-369	Color Facilities for Hollywood Palace	15,000	15,000	
HD-373	Support Equipment to supplement existing field camera equipment to create a Mobile Unit	10,000	30,000	11,000
HD-375	Modernize Studio A Control Room	20,000		
HD-376	Primary power distribution system for TV Center	100,000	200,000	177,000
HD-381	Additional dressing rooms in Studio A at TV Center	11,000		
HD-386	Alter Studio At 1313 N. Vine St. to accommodate Nightlife Show	80,000	20,000	
HD-389	Oliver Band-Saw for Production Services		3,000	
HD-393	Colorize Studio E purchase & install new color support equipment	20,000	100,000	400,000
HD-391	Custom Police Receiving System		7,000	
HD-394	TV Test Equipment		35,000	
HD-394	Double System Sound Projector		2,000	
HD-395	Two (2) Stancel Roffman Audio Recorders		6,000	
HD-396	Front Projection—Background System for Publicity Department		5,400	
HD-397	New mobile hauling vehicle with built in generator		17,000	
	Two (2) Network Control Rooms & one (1) Program Assembly Control Room			50,000
	TV Center Routing Switcher		71,000	100,000
	Replacement of Audio/Video distribution equipment at the Mt. Wilson TV transmitter			10,000
	New Pulse & Video distribution equipment for TV Center			175,000
[791]				
	Twelve (12) drop out compensators for video tape recorders, two (2) Vectorscopes, and eight (8) Color monitors for the Video Tape Room			65,000
	KADC-Radio—Expansion of studio & office area—new technical equipment & installation only			275,000
	KADC-FM contingent on FCC requirement to program FM separately—decision this quarter			30,000
	Hollywood total	316,800	601,400	1,365,000

[792] CHICAGO

RCF No.	Description	1965 4th qtr	1966 1st qtr	1966 2nd qtr
CH-114	Remote Control of Radio Station WLS-FM	7,000		
CH-124	New Film Cameras			180,915
CH-125	Installation of new video switchers & remote start/stop for VTR & Film Rooms		102,000	102,000
CH-132	Test Equipment for Chicago Radio Network	5,300		
CH-135	Basic TV Test & Terminal Equipment for Color Transmission		31,775	

Estimated cash flow for the fourth quarter of 1965 and the first and second quarters of 1966, October 29, 1965—Continued

[792] CHICAGO—Continued

RCF No.	Description	1965 4th qtr	1966 1st qtr	1966 2nd qtr
CH-138	Dummy Antenna for WLS-AM Transmitter	6,700		
	WLS-FM Stereo RF Equipment for Sports pickup, Mosely or equivalent	9,000		
	Expansion of present ON AIR facilities both Network AM and WLS-FM		20,000	
	Chicago, total	28,000	153,775	282,915

[793] DETROIT

RCF No.	Description	1965 4th qtr	1966 1st qtr	1966 2nd qtr
DET-73	One (1) RCA TR-22 Videotape Recorder and associated equipment	89,000		
DET-78	Technical Equipment for WXYZ-TV Film Facilities	1,000		
	TV Test Equipment		17,000	
	Radio Test Equipment			5,000
	WXYZ-FM contingent on FCC requirement to program FM separately—decision this quarter			30,000
	Detroit total	90,000	17,000	35,000

[794] SAN FRANCISCO

RCF No.	Description	1965 4th qtr	1966 1st qtr	1966 2nd qtr
SF-142	Solid state video distribution amplifiers	2,500		
SF-152	One Moviola	3,900		
SF-163	One Tektronix 526 Vectorscope		1,700	
SF-164	Construction of new radio Building for KCO, new control room for TV studios C&O, and alterations to Radio & TV Building		165,000	278,000
	Color terminal equipment to include one Tektronix Vectorscope, two Ampex Proc Amps, and one Riker mult-test generator		9,000	9,000
	KCO-FM contingent on FCC requirement to program FM separately—decision should be this quarter			30,000
	San Francisco total	6,400	175,700	317,000

[795] PITTSBURGH

RCF No.	Description	1965 4th qtr	1966 1st qtr	1966 2nd qtr
PITT-45	Six (6) ATC Cartridge Playback Machines for KQV Studio	1,200		
PITT-49	Test Equipment for KQV Studio & Transmitter	2,700	2,700	
PITT-51	New Record & playback facilities for the KQV News Room	3,100	3,800	
	KQV-FM contingent on FCC requirement to program FM separately—decision this quarter			30,000
	Pittsburgh total	7,000	6,500	30,000

[Excerpt from Exhibit No. AR-41]

[845] METROPOLITAN LIFE INSURANCE COMPANY,
One Madison Avenue, New York, N.Y., April 3, 1967.

Mr. MILTON GROSSMAN,
Antitrust Division,
Department of Justice,
Washington, D.C. 20530.

DEAR MR. GROSSMAN: You will recall that when you visited us on March 28 and asked about a 50% debt ratio that Mr. Goldenson had mentioned. I checked our files for an amendment to our documents that might include the 50% ratio. It was within this context that my letter of March 30 was written, i.e., our records did not show any existing or contemplated amendment to the documents incorporating a 50% ratio.

Since March 30 I have had reason to talk with Simon Siegel of ABC on another matter. In talking with him I mentioned that you had asked about a 50% debt ratio. He told me that in one of our earlier telephone calls, when the Company was contemplating its $25,000,000 bank borrowing, I had indicated to him that we would not like to see the Company exceed this ratio.

I do not recall the details of this telephone conversation, but at the time I certainly was aware that ABC was approaching a 50% debt level and in view of this condition it would have been normal for me to indicate that we would not like to consent to the incurrence of additional senior debt which would result in a debt ratio of 50% or more. As I might have indicated on March 23, a 50% total debt ratio (i.e., total senior and subordinated debt as related to total net tangible assets) is quite common in both public debt issues as well as in debt issues that are placed directly with institutional lenders.

Very truly yours,

C. R. CHARBONNIER.

[Federal Communications Commission Exhibit No. AR-42; presented by American Broadcasting Co.]

[865] JANUARY 3, 1967.

Per your instructions, I have supplied C. E. Benham with a

preliminary list of six development projects which have been indicated to be useful for future utilization by the network. I will continue to keep him advised.

1. Color and raster lock from any outside source now operating on U.S. color standards.

2. Standards conversion from Pal or Secam 625/50 to U.S. and vice-versa.

3. Color Kinescope recording.

4. Improvement of Plumbicon camera operation to handle highlights and low light levels.

5. Improved color portable camera—light weight Image Orthicon Camera.

6. RF microphone system at 960 MC.

MAX BERRY.

[Exhibit No. AR-43]

EXCERPTS FROM RCA 1966 ANNUAL REPORT

[890] THE COMMUNICATIONS MARKET

The diverse media of radio, television, the printed word, photography, and the graphic arts communicate an endless flow of information about personalities, issues, and ideas to every corner of the nation.

The organizations that satisfy this hunger for news, knowledge, and entertainment make up a large and growing market for electronic equipment and services, and RCA provides them with a wide range of products.

Broadcast Equipment

For television and radio broadcasters, RCA provides everything from a replacement tube to an entire studio and transmitting facility, fully equipped and ready to go on the air.

During 1966, the company's broadcast equipment sales increased 44 per cent to establish a new all-time record. Much of the increase can be attributed to RCA's new generation of color television cameras, particularly the four-tube TK-42, which was produced in volume.

A companion camera for film broadcasts, the TK-27, was delivered to scores of local television stations throughout the

year, adding substantially to the number throughout the country that can now originate color programs from film. Out of approximately 620 stations on the air, 450 had that capability at the end of the year. At the same time, approximately 150 television stations were equipped to originate live color programs.

Television Tape Recordings

The first deliveries of an advanced color TV tape system, the TR–70, were made in 1966. In addition to normal program recording requirements, the system is expected to be particularly useful to networks and production companies making multiple re-recordings of color programs on tape.

In recognition of the developing technology in TV tape equipment, a separate Electronic Recording Products Department was organized to speed the development of new products and to incorporate the latest engineering advances in equipment currently being delivered.

Graphics

In the mass communication of information, the electronic pictures of television are complemented by the graphic images of type and photography. Today, graphics comprise the nation's seventh largest industry and represents a promising market for RCA's proven skills in television photographic methods, office copier techniques, and computer technology. During the year, the company's new Graphic Systems Division marketed its first two products.

The Graphic 70 Videocomp is a unique electronic type composition system that can set the text for an entire newspaper page in less than two minutes, which is approximately 100 times faster than manual typesetting machines. Its companion product is the Graphic 70 Color Scanner, which electronically produces the four basic color separations needed in full-color printing.

During 1966, the newspaper industry depended upon RCA Communications for photo transmission service with 56 overseas points as well as program broadcast service for news agencies in all parts of the world. RCA also maintained some 5,000 teletypewriters and teletypesetters owned by a news service used by newspapers and radio stations.

Economic growth and rising aspirations in most parts of the world are creating new international markets for electronic products and services.

Among the principal trends is the accelerating growth of television as developing nations seek to initiate or expand currently limited services and as advanced nations prepare to introduce or expand color television broadcasting.

Television Abroad

RCA Victor Company, Ltd., RCA's Canadian subsidiary, substantially expanded its color picture tube facility and began construction of a new cabinet plant at Owen Sound, Ontario.

In anticipation of regular color broadcasting in Europe, a new company, RCA Colour Tubes Ltd., was formed in England in association with the British firm of Radio Rentals Ltd. to produce RCA color picture tubes for the British and European markets.

The Philippines became the second Far Eastern nation after Japan to begin color broadcasting, employing RCA color studio and transmitting equipment installed at a Manila station.

In Nigeria, RCA began installation of transmission and studio equipment at five sites in order to carry monochrome television to the entire country for the first time, and the Republic of the Congo inaugurated limited television broadcasting in November with a new RCA-built station.

An unusual television and radio service began in South Vietnam with the start of broadcasting from "flying studios" to the U.S. and Vietnamese armed forces and the public. Three C–121 Super Constellation aircraft were outfitted with RCA broadcast equipment for transmission from the air to receivers in military posts and to sets in cities and remote hamlets.

In the Middle East, Saudi Arabia began expansion of its television network with the aid of additional RCA equipment, and the Republic of Iraq ordered television equipment from the company for three new stations as part of a five-year television expansion program.

At the year's end, however, political uncertainty surrounded

these two projects and other RCA business activities in the Arab world as a result of the announced intention of the Arab Boycott Committee to ban RCA, along with other major companies, because of its refusal to discontinue commercial dealings with Israel.

Other Activities Overseas

NBC Enterprises was active in 93 foreign countries during 1966. The organization sold television films to broadcasting authorities, extended advice and consultation, and invested in new undertakings such as a television station in Hong Kong. NBC film crews logged hundreds of thousands of miles from the remote vastness of Siberia to the mountain trails of Colombia to obtain program material.

RCA supplied the Hong Kong Ambulance and Fire Service in 1966 with mobile two-way radio units mounted on fire trucks and ambulances. Similar equipment was provided to the Singapore Police Department.

RCA Communications was selected to provide Thailand with Southeast Asia's first communications satellite earth station. RCA will install, operate, and maintain the station under lease to the Thai government.

[896] RCA AND RESEARCH

The electronic products that are so radically changing the character of society flow from research efforts that continue to uncover fresh ideas and develop new technology.

RCA has long been committed to a broad program of research in all aspects of electronics, and it has at the same time developed important new tools and techniques for research in other disciplines.

One of the basic tools of research in many areas of science, for example, is the RCA Electron Microscope. In 1966, a new television display unit was added to the electron microscope to permit its use as a teaching tool. Images formed in the microscope are piped into a television system so that entire classrooms can share in the microscopist's view as he scans a specimen.

Years of RCA experience in advanced electron tube technology were applied to the manufacture of large klystron power tubes for installation during the year in one of the largest and most powerful scientific instruments in the world—a two-mile-long linear accelerator at Stanford University in California. RCA was among three principal tube makers selected to produce the 240 klystrons required for the high-energy accelerator, which sends electrons down the two-mile raceway at nearly the speed of light to smash atoms in experiments probing the structure of matter. Each of the tubes delivers a peak power output of 24 million watts, and each weighs 1,400 pounds together with its magnet and shielding.

At RCA's own laboratories, scientists developed a method for growing solid crystals of gallium arsenide and its alloys from hot vapors. This formed the groundwork for producing for the first time a host of high-performance electronic devices from these materials.

Some of the experimental products already produced as a result of this process include the first injection laser to emit visible light at room temperature and the most efficient electroluminescent diodes ever produced for converting electricity directly to light.

A revolutionary "tubeless" television camera was exhibited for the first time in 1966. The experimental device, developed for the Air Force, employs networks of thin films of photoconductors and other semiconductor materials to perform the functions handled by a pickup tube and picture processing elements in a conventional camera. The novel camera is no bigger than a man's hand, is battery operated, and is regarded as a major step toward a personal television communication system.

A major obstacle to obtaining reliable electric power in space was removed during the year by the development at RCA Laboratories of a silicon solar cell that is up to 100 times more resistant to nuclear radiation than standard types. Such devices should be able to operate indefinitely in the Van Allen belts of radiation that surround the earth in space.

RCA scientists continued their investigations of the phe-

nomenon of superconductivity and also engaged in a major effort to develop a "universal" solid-state module as a possible building block for a variety of microwave systems that would bear upon several RCA product lines.

An outstanding result of research in 1965 was translated into a significant new product in 1966. The device is an argon laser, which produces the highest power of any visible light laser in existence, with a lifetime of more than a thousand hours, in contrast to the previous maximum life of about 100 hours for such devices.

[897] THE PEOPLE OF RCA

The growth in RCA sales and new facilities spurred an accelerated hiring campaign in 1966. During the year, the worldwide total of RCA employees increased from 100,000 to 124,000, a record rate of growth.

The company has continued to give its most active support to the Equal Employment Opportunity Program. The result has been a smooth and effective integration of minority groups throughout the RCA organization.

The company's Tuition Loan and Refund Program encouraged more than 5,000 qualified employees to further their education in more than 125 colleges, universities, and other schools.

Several hundred key RCA executives continued their participation in the company's Executive Management Program. The course is designed to provide a better appreciation of systems technology and computer capabilities in the application of management information systems in RCA.

Relations with labor unions representing RCA employees continued at a mature level in 1966, with no major work stoppages. Twenty-one labor agreements were successfully negotiated, bringing the total of labor agreements to more than 115, covering approximately 60,000 employees. Major agreements covering production and maintenance employees expire in June, 1967.

MANAGEMENT REALIGNMENT

A realignment in RCA's management organization took effect on January 1, 1967, reflecting the major growth in the company's business.

W. Walter Watts, Group Executive Vice President, assumed responsibility for Defense Electronic Products, the Broadcast and Communications Products Division, and the Graphic Systems Division.

Charles M. Odorizzi, Group Executive Vice President, assumed responsibility for the RCA Magnetic Products Division, while continuing his responsibility for RCA Communications, Inc., the RCA Service Company, and the RCA Victor Record Division.

Delbert L. Mills, Executive Vice President, assumed responsibility for Distributor and Commercial Relations while continuing his responsibility for Consumer Products, including the RCA Sales Corporation, RCA Victor Home Instruments Division, the RCA Victor Distributing Corporation, and RCA Parts and Accessories.

Other key operating executives now reporting to the President are John B. Farese, Vice President, Electronic Components and Devices; James R. Bradburn, Vice President and General Manager, Electronic Data Processing; and Charles R. Denny, Vice President and Managing Director, RCA International Division.

In the Corporate Staff, Arthur L. Malcarney assumed the new position of Executive Vice President, Manufacturing Services and Materials; Howard L. Letts was advanced to the position of Executive Vice President, Finance; and Edward M. Tuft became Executive Vice President, Personnel. In addition, the licensing function directed by Melvin E. Karns, Vice President, was made a part of the Corporate Staff.

On December 9, 1966, Robert L. Werner was appointed General Counsel of RCA. Mr. Werner, an Executive Vice President and a member of the RCA Board of Directors, had previously served for 15 years as the company's General Attorney.

*   *   *   *   *

[Exhibit No. AR–44]

Excerpts From CBS 1966 Annual Report

[948] CBS LABORATORIES

In 1966, a year in which the nation's space and defense efforts continued to tax the ingenuity of scientists and technicians, CBS Laboratories further increased its already considerable contributions to these fields. The Division also introduced a number of new devices in broadcast and industrial technology. As a result, sales were the highest in the Laboratories' history, with an increase of 50 percent over 1965, the previous best year.

Outstanding among CBS Laboratories' achievements was the performance, during NASA's two Lunar Orbiter missions, of the unique on-board readout and ground recording system, pioneered and developed by the Division. At the heart of the system was the high-intensity Line Scan Tube and associated electronics, designed and built by the Laboratories. This system permitted the sending to earth of high-quality photographs of the moon's surface.

Expansion included a new Educational Technology Department, formed because of the Division's broadening activities in the application of its scientific resources toward educational needs in the United States and abroad.

Increasing international emphasis on the vast field of oceanography caused the Division to intensify its studies of a number of aspects of underwater technology. Research and systems development was also stepped up in various uses of the laser, including such applications of holography (three-dimensional lensless photography) as sonography (seeing under water by means of holographic sound) and the transmission of reconnaissance photographs.

Defense and other developments begun during the year included a pod-mounted airborne system for use during low-level reconnaissance missions, capable of transmitting on-board processed photographs to command posts almost instantaneously.

A mortar locator is currently under development in cooperation with the Army Electronics Command. The system will

single out the sound waves of muzzle blasts of enemy mortars by using an array of direction-sensing microphones. It will then alert radar operators to search for specific mortar locations.

Work was completed on a highly versatile television camera-monitor for military application, complete with a back-pack power supply and transmitter. The system permits the operator to see his camera output on a detachable monitor.

The first of four Linotron units—the ultra-highspeed photocomposing system developed for Mergenthaler Linotype Company for use by the Government Printing Office and the Air Force—is currently being prepared for acceptance tests.

Professional products activity increased in 1966. Tecnifax Corporation, a wholly-owned subsidiary of Scott Paper Company, has begun marketing diazo microfilm duplicating machines developed and produced by the Division.

A new color television image enhancer and a color masking amplifier were developed by the Division for the CBS Television Network. These studio devices dramatically improve the sharpness and color fidelity of television reception. The Laboratories also designed and built three color mobile units for the CBS Television Network—the most compact and most versatile mobile color television control room ever developed. They have already been successfully used for a considerable number of remote pickups, including National Football League games.

The FM Volumax which, installed at the transmitter, prevents FM overmodulation without distortion, and the Wide Range Monitor, which measures program sound, noise and cross talk on a single meter scale, were introduced in March, and already can be found in television and AM and FM stations in every major city in the United States. Their success, together with continuing sales of other devices, makes the Laboratories one of the leading designers and producers of professional audio control systems.

PETER C. GOLDMARK,
President, CBS Laboratories.

278-719—67——8

[Exhibit No. AR-45]

[974] Engineering Survey and Report, Part 2

Results and Recommendations

A. RESULTS

The results of this study indicate that the present level of operations at TV Center, Hollywood are straining the existing facilities to the point that the capacity to properly and economically handle additional shows is severely limited.

It was found that many departments are presently performing their tasks under the handicap of overcrowded offices, split operations resulting in difficult supervision and inadequate control, lack of group conference or meeting rooms, security problems, inability to use new or improved technical equipment because of lack of space or services, damage to tape and film because of the lack of proper dust, temperature, and humidity controls.

The recommended facilities will provide the proper environment for each function and the required space for efficient operations. The various departments will be located in close proximity to related functions for economical flow of material and personnel.

[975] The recommended facilities and services are not projected necessarily from adequate or satisfactory conditions, but raise the existing facilities to a standard that would be adequate to properly meet the present requirements than projected for the future five year growth requirements.

B. RECOMMENDATIONS

The Engineers recommend that the facilities described in this section and located as shown on Exhibit 2, SITE PLAN—PHASE ONE, be constructed or remodeled to provide the facilities to efficiently meet the present and anticipated future work loads.

This phase of construction is a progressive step toward the ultimate master planned development of TV Center, Hollywood, as shown on Exhibit 19, SITE PLAN—ULTIMATE DEVELOPMENT.

[Federal Communications Commission Exhibit No. AR-46; presented by American Broadcasting Co.]

[1144] BEFORE THE

FEDERAL COMMUNICATIONS COMMISSION

WASHINGTON, D.C.

Docket No. 16828

In the Matter of

APPLICATIONS BY AMERICAN BROADCASTING COMPANIES, INC.

For Assignment of Licenses of Stations WABC, WABC-FM, WABC-TV, New York, N.Y.; WLS-FM, WBKB, Chicago, Ill.; KGO, KGO-FM, KGO-TV, San Francisco, Calif.; KABC, KABC-FM, KABC-TV, Los Angeles, Calif.

For Transfer of Control of Stations WLS, Chicago, Ill.; KQV and KQV-FM, Pittsburgh, Penn.; WXYZ, WXYZ-FM, WXYZ-TV, Detroit, Mich.

For Assignments and Transfers of Ancillary Radio Facilities.

SUPPLEMENTAL RESPONSE BY ABC TO MR. FITZPATRICK'S REQUESTS OF MARCH 23 AND 28, 1967.

[1145]

LAW OFFICES, MCKENNA & WILKINSON,
Washington, D.C. 20036, April 11, 1967.

THOMAS B. FITZPATRICK, Esq.,
Broadcast Bureau,
Federal Communications Commission,
Washington, D.C. 20554.

DEAR TOM: In further response to your March 23 and March 28, 1967 requests for information, I enclose herewith the following:

1. Further breakdown of American Broadcasting Companies, Inc. Revenues for the Years 1963, 64, 65 and 66 (Attachment A).

2. Further breakdown of American Broadcasting Companies, Inc. Expenses for the Years 1963, 64, 65 and 66 (Attachment B).

3. News Department Plans and Expenses Anticipated for the Calendar Year 1967, prepared as of September 30, 1966 (Attachment C).

4. ABC News Release dated March 27, 1967 (Attachment D).

I also desire to make the following corrections in information appearing in Attachment 6 to my letter to you of March 28, 1967. These errors were uncovered as a result of recomputations.

a. Attachment 6, page 3, substitute the figure 44,400 in place of 94,400 in the NEWS column, *Total Homes*, ABC.

b. Attachment 6, page 5, substitute the figure 45,700 in place of 95,700 in the NEWS column, *Total Homes*, ABC.

[1146] c. Attachment 6, page 13, substitute the figure 8.600 in place of 6,400 in the NEWS column, *Total Homes*, ABC.

d. Attachment 6, page 14, substitute the figure 2,200 in place of the dash (—) in the NEWS column, *Total Homes*, ABC.

As an aid to you and other attorneys who will be cross-examining ABC witnesses, I enclose herewith copies of pages 684–691, of the March 23, 1967 Pre-hearing Transcript, and copy of your letter to me of March 27, 1967, on which I have indicated the ABC witnesses whom we believe are most knowledgeable in the various areas you desire to cover in your questioning.

Sincerely,

James A. McKenna, Jr.

[1147] **ATTACHMENT A**

American Broadcasting Companies, Inc.

REVENUES

	1963	1964	1965	1966
Revenues:				
Total	$386,729	$420,915	$476,465	$539,972
Nonbroadcast—Theatres, Merchandise and other broadcast division ancillary activities.	106,157 4,099	110,780 5,667	114,834 6,415	126,288 6,569
Subtotal	110,256	116,447	121,249	132,857
Broadcast Revenue, before adjustment to FCC basis.	276,473	304,468	355,216	407,115
Deduct—Station compensation and spot rep commissions which are classified as a deduction from revenues for FCC reports pursuant to instructions for their preparation	(62,808)	(64,607)	(70,806)	(80,657)
Subtotal	213,665	239,861	284,410	326,458
Add—Intro-division eliminations, mainly compensation by network to owned stations which cannot be eliminated in preparation of the individual FCC statements submitted for each reporting unit	13,295	15,360	16,837	18,443
Total broadcast revenues as reported on FCC reports	226,960	255,221	301,247	344,901
Revenues from:				
Radio Network O & O stations	7,037	8,768	9,523	10,138
TV stations:				
WABC-TV	12,511	16,093	18,960	22,877
WBKB-TV	10,435	12,345	12,481	13,190
WXYZ-TV	5,924	7,851	8,539	9,107
KABC-TV	7,583	11,017	13,832	15,528
KGO-TV	6,586	8,340	9,557	10,966
Total, TV stations	43,039	55,646	63,369	71,668
AM and FM stations:				
WABC	2,983	2,975	3,714	4,341
WLS	1,976	2,449	3,375	3,738
WXYZ	2,062	2,533	2,056	2,105
KQV	863	869	998	1,174
KABC	1,555	1,646	2,232	2,777
KGO	695	846	937	1,438
Total, AM & FM stations	10,134	11,318	13,312	15,573
Total, stations	53,173	66,964	76,681	87,241
Television Network:				
News programs	2,839	1,835	3,172	4,955
Public affairs programs	1,761	2,665	1,828	1,845
Sports programs	15,809	14,846	14,761	23,299
Entertainment programs	146,341	160,143	195,282	217,423
Total, television network	166,750	179,489	215,043	247,522

American Broadcasting Companies, Inc.—Continued

[1148]

EXPENSES

	1963	1964	1965	1966
Expenses:				
Total	$379,344	$409,896	$460,744	$522,112
Interest	2,279	2,095	2,395	2,686
Federal income taxes	9,056	11,215	13,200	14,850
Nonbroadcast operating and general expenses, including expenses of broadcast division ancillary activities	102,158	105,642	109,740	118,005
Broadcast expenses, before adjustment to FCC basis (same as adjustment to Revenues)	265,851	290,944	335,409	385,571
Deduct—station compensation and Spot Rep commissions which are classified as deductions from revenue for FCC reports pursuant to instructions for their preparation	(62,808)	(64,607)	(70,806)	(80,657)
Subtotal	203,043	226,337	264,603	304,914
Add—Intra division eliminations mainly compensation by network to owned stations which cannot be eliminated in preparation of the individual FCC statement submitted for each reporting unit	13,295	15,360	16,837	18,443
Total broadcast expenses as reported on FCC reports	216,338	241,697	281,440	323,357
Expenses from:				
Radio network O & O stations	10,337	11,337	13,053	13,582
TV stations:				
WABC-TV	6,997	9,128	10,248	12,367
WBKB-TV	6,665	7,751	8,582	8,851
WXYZ-TV	4,154	4,976	5,423	5,798
KABC-TV	4,841	6,784	8,180	9,042
KGO-TV	4,185	5,116	5,486	6,254
Total, TV stations	26,842	33,755	37,919	42,312
AM & FM stations:				
WABC	2,255	2,393	2,842	3,285
WLS	1,431	1,572	1,890	2,009
WXYZ	1,284	1,460	1,421	1,484
KQV	719	823	882	952
KABC	1,125	1,260	1,489	1,768
KGO	1,022	1,198	1,275	1,439
Total, AM & FM stations	7,836	8,706	9,799	10,937
Total, stations	34,678	42,461	47,718	53,249
Television network:				
Gen. & Adm	9,721	11,747	12,856	16,249
Sales	5,350	6,128	6,914	8,709
Technical	9,511	11,234	14,488	16,034
News programs	6,822	8,629	11,160	12,175
Public affairs	5,778	11,171	11,840	12,525
Sports programs	10,178	9,802	14,253	20,465
Entertainment programs	123,963	129,188	149,158	170,369
Total, Television Network	171,323	187,899	220,669	256,526

[1149] **Attachment B**

Mr. Siegel

News department plans and expenses anticipated for the calendar year 1967

	Television	Radio	Total
Programming	$25,300,000	$1,200,000	$26,500,000
Cable	1,200,000	500,000	1,700,000
Departmental Budgets	1,900,000	1,100,000	3,000,000
Departmental Overhead	600,000	200,000	800,000
Pre-emption Costs	1,000,000		1,000,000
	$30,000,000	$3,000,000	$33,000,000

September 30, 1966.

[Does not include station compensation and preemption costs]

[Exhibit No. AR-50]

[1223]

Production facilities used for regularly scheduled ABC programs, January 1967

Program	Weekly hours		Feature film
	ABC facilities	Other facilities	
Iron Horse		1	
Rat Patrol		½	
Felony Squad		½	
Big Valley		1	
Combat	1 (Selmur, Hollywood)		
Invaders		1	
Peyton Place I		½	
Peyton Place II		½	
Fugitive		1	
Batman I		½	
Monroes		1	
Movie (Wed.)			2
Batman II		½	
F Troop		½	
Bewitched		½	
Rooftop		½	
That Girl		½	
ABC Stage '67	1 (Varies)		
Green Hornet		½	
Time Tunnel		1	
Rango		½	
Phyllis Diller		½	
Avengers		1	

Production facilities used for regularly scheduled ABC programs, January 1967—Continued

Program	Weekly hours: ABC facilities	Weekly hours: Other facilities	Feature film
Dating Game	½ (Hollywood)		
Newlywed Game	½ (Hollywood)		
Lawrence Welk	1 (Hollywood)		
Hollywood Palace	1 (Hollywood)		
Voyage		1	
FBI		1	
Movie (Sun.)			
Hoppity Hooper		½	2
American Bandstand	1 (Hollywood)		
Pro. Bowles tour	1½ (Remote)		
Wide World of Sports	1½ (Remote)		
Bullwinkle		½	
Discovery	½ (Remote)		
Beany & Cecil		½	
[1224]			
Linus		½	
Peter Potamus		½	
Directions	½ (N.Y.)		
Issues and Answers	½ (Washington)		
NBA Basketball	2 (Remote)		
American Sportsman	1 (Remote)		
Marlene Sanders News	25" (N.Y.)		
ABC Scope	½ (N.Y.)		
Peter Jennings	2½ (N.Y.)		
Keith McBee News	½ (N.Y.)		
Supermarket Sweep		2½ (Remote)	
Dating Game	2½ (Hollywood)		
Everybody's Talking	2½ (Hollywood)		
Donna Reed		2½	
Ben Casey		5	
Newlywed Game	2½ (Hollywood)		
Dream Girl	2½ (Hollywood)		
Gen Hospital	2½ (Hollywood)		
Nurses		2½	
Dark Shadows	2½ (N.Y.)		
Action	2½ (Remote)		
Porky Pig		½	
King Kong		½	
Beatles		½	
New Casper Cartoons		½	
Milton the Monster		½	
Magilla Gorilla		½	
	34:55	33½	4

[1252] [Federal Communications Commission Exhibit No. AR-57; presented by American Broadcasting Co.]

Position Title: Director, TV Systems Planning.

Organization/Location: Technical Department—ITTNY

Reports to: A. E. Cookson.

Position Summary: In the space below provide a summary of the objectives and the major activities of this position.

The Director, TV Systems Planning, will be responsible for providing comprehensive technical liaison between ABC and ITT.

Major Activities Performed: List in detail the major activities performed in the position, starting with the most important activities.

1. Develop and maintain a detailed knowledge of all technical aspects of ABC's operation, including broadcast station, network, and program production technical facilities. Continuously visit and discuss technical facilities with ABC technical and management personnel to insure that information is correct and current.

2. Acquire and maintain overall information of ITT technical capabilities, particularly in those areas where these capabilities can be used to assist ABC; such as in broadcast and TV transmitter developments, TV antennas, TV tuner developments, special TV components, and satellite ground and airborne equipment applicable to TV distribution.

3. On the basis of information gathered under items 1 and 2, continually provide the senior management of ITT and ABC with advice on how ITT's technological capability can be used to assist ABC.

4. As requested, perform consulting services for senior ABC management in the technical areas; i.e. to assist in planning the technical aspects of ABC expansion programs.

5. Continuously evaluate the state-of-the-art in the R&D aspects of TV systems to provide long lead time advice to ABC in technical areas and to assist in budgeting RD&E expenditures for TV support.

6. Provide assistance to ABC in the preparation of capital plan budgets and assist ABC in preparing necessary explanatory data for presentation of this information to ITT management.

7. Prepare specific programs relating to technical assistance for ABC for assignment to the ITT Advanced Development Center.

8. Continuously monitor ABC programs in process at ITT's Advanced Development Center and advise ITT's Technical Director and ABC management of progress on programmed orientation as required.

9. Maintain continuous knowledgability and advise ITT management on technical positions of Government regulatory agencies, such as the FCC, which affect the broadcast industry or TV systems planning.

10. Represent ITT in meetings or briefings with various governmental agencies concerned with the broadcast and television fields.

11. Conduct studies of the broadcast industry to assure that ITT/ABC technical programs are consistant with making ABC more efficient and competitive.

12. Upon assignment by the Technical Director, attend meetings of such organizations as NAB, IEEE, SMPTE, and EIA; and participate in committee functions effecting broadcast technology.

[1253]

[Federal Communications Commission, Exhibit No. AR–62; presented by American Broadcasting Co.]

[1265] *Top ranked 150 markets, ARB net weekly circulation, 1965*

Rank	Market	Net Weekly Circulation
1	New York, N.Y.	5,375,400
2	Los Angeles, Cal.	2,967,700
3	Chicago, Ill.	2,348,300
4	Philadelphia, Pa.	2,091,500
5	Boston, Mass.	1,675,000
6	Detroit, Mich.	1,519,600
7	San Francisco, Cal.	1,297,000
8	Cleveland, O.	1,243,300
9	Pittsburgh, Pa.	1,167,600
10	Washington, D.C.	[illegible]

[1265] *Top ranked 150 markets, ARB net weekly circulation, 1965*—Con.

Rank	Market	Net Weekly Circulation
11	Baltimore, Md	818,200
12	St. Louis, Mo	811,100
13	_Hartford-New Haven, Conn_	799,500
14	*_Providence, R.I._	775,600
15	Dallas-Ft. Worth, Tex	767,500
16	Cincinnati, O	719,500
17	Minneapolis-St. Paul, Minn	679,400
18	Indianapolis, Ind	678,300
19	Atlanta, Ga	615,200
20	Miami, Fla	611,400
21	Seattle-Tacoma, Wash	606,500
22	Buffalo, N.Y	600,200
23	Milwaukee, Wis	583,500
24	Kansas City, Mo	583,300
25	Houston, Tex	559,700
26	_Toledo, O_	549,600
27	Sacramento-Stockton, Cal	535,500
28	*_Dayton, O_	533,600
29	*_Charlotte, N.C_	505,400
30	Columbus, O	501,100
31	*_Wheeling, W.Va.-Steubenville, Ohio_	495,100
32	*_Tampa-St. Petersburg, Fla_	478,900
33	*_Harrisburg-Lancaster-Lebanon-York, Pa_	472,700
34	Memphis, Tenn	469,400
35	Syracuse, N.Y	466,800
36	Portland, Ore	462,200
37	Albany-Schenectady-Troy, NY	460,900
38	*_Grand Rapids-Kalamazoo, Mich_	450,100
39	_Birmingham, Ala_	447,100
[1266]		
40	Denver, Colo	435,900
41	*_Johnstown-Altoona, Pa_	434,400
42	Nashville, Tenn	431,100
43	New Orleans, La	428,300
44	Greenville, Spartanburg, S.C.-Ashville, N.C	427,400
45	Charleston-Huntington, W. Va	410,000
46	_Flint-Saginaw-Bay City, Mich_	408,100
47	*_Lansing, Mich_	403,700
48	*_Louisville, Ky_	395,700
49	Greensboro-Winston Salem-High Point, N.C	392,300
50	_Raleigh-Durham, N.C_	364,400
51	Oklahoma City, Okla	360,400
52	_Salinas-Monterey-Santa Cruz, Cal_	357,100
53	_Manchester, N.H_	348,800
54	*_San Diego, Cal_	346,300
55	Norfolk Portsmouth-Newport News-Hampton, Va	338,400
56	Wichita, Kan	332,100
57	San Antonio, Tex	319,600
58	Tulsa, Okla	316,300
59	Portland-Poland Spring, Me	313,800
60	Omaha, Neb	313,500
61	*_Roanoke, Va_	306,800
62	Phoenix, Ariz	306,500
63	Salt Lake City-Ogden-Provo, Utah	297,900
64	Green Bay, Wis	296,600
65	Richmond, Va	294,200

See footnotes at end of table.

[1266] *Top ranked 150 markets, ARB net weekly circulation, 1965*—Con.

Rank	Market	Net Weekly Circulation
66	Quad City (Davenport, Ia.-Rock Island-Moline, Ill.)	294,100
67	Orlando-Daytona Beach, Fla.	291,200
68	Rochester, N.Y.	285,800
69	Shreveport, La.	[illegible]0,600
70	Wilkes-Barre-Scranton, Pa.	275,900
71	Little Rock, Ark.	267,700
72	**Jacksonville, Fla.*	265,500
73	**Champaign-Decatur-Springfield, Ill.*	262,400
74	Cedar Rapids, Ia.	261,900
75	Mobile, Ala.-Pensacola, Fla.	260,500
76	Des Moines, Ia.	251,100
77	Spokane, Wash.	248,100
[1267]		
78	*Springfield-Holyoke, Mass.*	242,300
79	**Jackson, Miss.*	241,900
80	**Knoxville, Tenn.*	239,200
81	**Madison, Wis.*	232,700
82	**Binghamton, N.Y.*	231,100
83	**Columbia, S.C.*	225,600
84	*Columbus, Ga.*	223,300
85	**Baton Rouge, La.*	222,200
85	*W. Palm Beach, Fla.*	222,200
87	**Cape Girardeau, Mo.-Paducah, Ky.-Harrisburg, Ill.*	220,700
88	*Evansville, Ind.*	219,000
89	**Greenville-Washington-New Bern, N.C.*	218,600
90	**Sioux Falls, S.D.*	217,900
91	Fresno, Cal.	216,300
92	Chattanooga, Tenn.	206,300
93	Lincoln-Hastings-Kearney, Neb.	201,300
94	*Rockford, Ill.*	194,600
95	Youngstown, O.	193,800
96	**Augusta, Ga.*	191,600
97	South Bend-Elkhart, Ind.	188,300
98	Peoria, Ill.	184,700
99	Ft. Wayne, Ind.	181,600
100	Albuquerque, N.M.	179,300
101	**Bristol, Va.-Johnson City, Tenn.*	177,500
102	Beaumont-Port Arthur, Tex.	172,800
103	**Erie, Pa.*	162,200
104	**Burlington, Vt.-Plattsburgh, N.Y.*	158,300
105	*Lafayette, La.*	156,300
106	**Springfield, Mo.*	154,700
107	**Duluth, Minn.-Superior, Wis.*	153,800
108	Austin-Rochester, Minn.-Mason City, Ia.	152,900
109	**Terre Haute, Ind.*	151,700
110	**Joplin Mo.-Pittsburg, Kan.*	150,000
111	Hawaii	149,500
112	**Albany, Ga.*	148,500
113	**Montgomery, Ala.*	148,400
114	**Florence, S.C.*	147,400
[1268]		
115	**Utica, N.Y.*	146,700
116	**Waco-Temple, Tex.*	145,700
117	**Sioux City, Ia.*	145,000
117	**Tallahassee, Fla.-Thomasville, Ga.*	145,000
119	Charleston, S.C.	144,500
120	**Cadillac-Traverse City, Mich.*	141,000

See footnote at end of table.

[1268] *Top ranked 150 markets, ARB net weekly circulation, 1965*—Con.

Rank	Market	Net Weekly Circulation
121	Amarillo, Tex	140,100
122	**Austin, Tex*	139,600
123	**Monroe, La.-El Dorado, Ark*	139,000
124	Wichita Falls, Tex.-Lawton, Okla	138,500
125	**La Crosse, Wis*	135,100
126	**Hannibal, Mo.-Quincy, Ill*	134,000
127	**St. Joseph, Mo*	130,800
128	**Bluefield, W. Va*	129,700
129	*Chico-Redding, Cal*	129,600
130	Fargo, N.D	128,400
131	**Topeka, Kan*	126,400
132	**Dothan, Ala*	124,900
133	**Columbia-Jefferson City, Mo*	122,600
134	Tucson, Ariz	122,500
135	El Paso, Tex	121,800
136	*Wausau, Wis*	121,400
137	*Santa Barbara, Cal*	119,500
138	*Wilmington, N.C*	119,300
139	Colorado Springs-Pueblo, Colo	119,200
140	**Lubbock, Tex*	118,900
141	Corpus Christi, Tex	111,800
141	*Lexington, Ky*	111,500
143	**Savannah, Ga*	111,000
144	**Yakima, Wash*	109,300
145	**Macon, Ga*	109,200
146	Bakersfield, Cal	108,100
147	Odessa-Midland, Tex	107,700
148	**Alexandria, Minn*	103,500
149	**Abilene-Sweetwater, Tex*	101,200
150	*Eugene, Ore*	100,700

[1269]

	Number of Markets With Unequal Facilities	Number of Unequal Facility Markets With ABC at Disadvantage
Top 100	35	24
101 to 125	20	[illegible]
126 to 150	16	12
Total (top 150)	71	54

Italicized Markets—At least one network unable to be competitive because of facility disadvantage.
*—ABC at disadvantage.

[Exhibit No. AR-62-A]

Corrected summation

	Number of Markets With Unequal Facilities	Number of Unequal Facility Markets With ABC at Disadvantage
Top 100	36	[illegible]
101 to 125	20	18
126 to 150	18	12

[1271] [Federal Communications Commission, Exhibit No. AR–63; presented by American Broadcasting Co.]

Historically, ABC has been at a competitive disadvantage because the number of television homes reached by affiliated stations has been less than the corresponding number for its competitor networks (NBC and CBS). For example, Nielsen National (NTI) for November 1966 credits ABC with 8,670,000 homes delivered in prime time, whereas it credits CBS and NBC with an average of 9,410,000 homes; similarly, NTI credits ABC, during the hours 10:00 AM–5:00 PM, Monday–Friday, with 2,710,000 homes, whereas it credits CBS and NBC with an average of 4,360,000 homes. The effect of this disparity in number of homes reached is quite substantial. ABC estimates that an increase in number of homes reached to the CBS and NBC levels for prime time and the daytime hours referred to above would have resulted in an increase in revenues for 1966 of $72,793,000. This analysis is supported by Attachment A hereto. It does not include savings in print costs, estimated at approximately $7 million for 1967 if ABC did not have to rely on delayed broadcasts in scarcity markets.

There are distinct financial advantages, at least in the short term, in affiliation with VHF stations rather than UHF stations—particularly in 2–V markets. These advantages are reflected in the analysis of three markets where NBC and CBS have VHF primary affiliates and where ABC relies upon a UHF primary affiliate, Louisville, Kentucky, Knoxville, Tennessee, [1272] and Jacksonville, Florida, which is Attachment B hereto. The UHF stations in these markets deliver a total of 153,200 *fewer* homes nighttime and 89,400 fewer homes weekdays, daytime (10:00 AM–5:00 PM) than does an average of the two VHF stations totalled for the three markets. If ABC could have delivered these additional VHF homes, it would have increased its 1966 revenues, from these three markets alone, by $7,834,800. Subtracting added station compensation, the ABC increase would have been $6,615,000.

Because of ABC's competitive disadvantage and in view of the financial advantage of VHF affiliation, as illustrated above, ABC has, in most two-station markets where it does not have a primary affiliate, been forced to rely upon clearances for its programs upon VHF stations rather than upon a primary affiliation with a UHF station.

[1273] ATTACHMENT A

Between January–December 1966 ABC averaged 8,670,000 homes per minute, 8% less than the average of CBS and NBC. Nielsen reports ABC's cost-per-thousand over this period at $4.14, which is comparable to the average CBS and NBC cost-per-thousand of $4.18 (also reported by Nielsen).

Because of this homes deficiency ABC had to sell at an average minute price of $3,400 less than the average of the other networks in order to maintain a comparable cost-per-thousand. During the calendar year 1966 ABC sold 7,629 minutes during prime time at a deficit of $3,400 per minute. This means ABC had to charge nearly $26 million less for its prime time product than the average of the other networks.

Similarly, in daytime ABC charged nearly $47 million less than the other networks.

Prime evening time

	AA Homes (000)	Average Cost/Min	CPM/CM
CBS	9,330	$38,300	$4.10
NBC	9,490	$40,300	$4.25
Average CBS & NBC	9,410	$39,300	$4.18
ABC	8,670	$35,900	$4.14
CBS & NBC Advantage	+8%	+3,400 (+9%)	
Prime Time Minutes Sold 1966	7,629		
@ $35,900/min	$273,881,000		
@ $39,300/min	$299,819,700		
Difference Net Time & Talent	$25,938,700		

Source: Minutes Sold: ABC-TV Cost Control
AA Homes: NTI Jan–Dec 1966 Mon-Sat 7:30–11:00PM, Sun. 7–11PM
CPM/CM NTI Jan–Dec 1966
Cost/Min: Computed from AA Homes and CPM/CM

[1274] *Monday–Friday daytime*

	AAHomes (000)	Average Cost/Min	CPM/CM
CBS	5,310	$8,177	$1.54
NBC	3,410	$6,309	$1.85
Average CBS/NBC	4,360	$7,412	$1.70
ABC	2,710	$4,743	$1.75
CBS & NBC Advantage	+60%	$2,669 (56%)	....
ABC Minutes Sold 1966	17,555		....
@ $4,743	$83,263,400		....
@ $7,412	$130,117,700		....
Difference	$46,854,300		....

Source: Minutes Sold: ABC Cost Control
AA Homes: NTI Jan–Dec 1966 Mon-Fri 10AM–5PM
CPM/CM: NTI Jan–Dec 1966
Cost/Min: Computed from AA Homes and CPM/CM

[1276] ATTACHMENT B

Average daytime homes delivery

	UHF	VHF	Difference
Louisville	6,300	41,400	....
Jacksonville	1,800	28,500	....
Knoxville	1,400	29,000	....
Total	9,500	98,900	89,400

Source: ARB Nov. 1966.

	ABC 1966	Avg. CBS & NBC 1966
Avg. Home Delivery	2,710,000	4,360,000
CPM/CM	$1.75	$1.70
Cost/Min	$4,743	$7,412

WITH ABC VHF & OTHER NETWORK UHF IN LOUISVILLE, KNOXVILLE & JACKSONVILLE

Avg. Network Homes	2,799,400		4,270,600
Same CPM/CM	$1.75		$1.70
New Cost/Min	$4,899		$7,260
Diff. Per Minute		$156	
Total # Day Minutes 1966		17,555	
Total Additional Gross (Net Time & Talent)		2,738,600	

Source: Homes ARB Nov. 1966 CPM/CM NTI Jan–Dec 1966 Cost/Min Computed From AA Homes and CPM/CM.

[1277] With VHF's in Louisville, Knoxville, and Jacksonville, ABC would gain an estimated:

Daytime	$2,738,600
Prime Time	5,096,200
Total	7,834,800

The additional compensation for these three stations would be an estimated: 1,219,800 (ABC Cost Control).

ABC's additional revenue would be: $6,615,000.

[1284] [Federal Communications Commission, Exhibit No. AR-65; presented by American Broadcasting Co.]

Attached hereto are the clearances for ABC programs for all markets during the week of April 16-22, 1967. The programs are grouped by Nighttime, Daytime (weekends and week days), and News, Special Events and Sports. With respect to daytime programming figures in parenthesis indicate the number of days delay in broadcast.

278-719—67——9

[1285]

City and State	Call Letters
EASTERN	
Akron, Ohio*	WAKR
Albany, Ga.	WALB
Albany, N.Y.*	[illegible]
Altoona, Pa.	WFBG
Johnstown, Pa.	[illegible]
Johnstown, Pa.	WJAC
Anderson, S.C.*	[illegible]
Asheville, N.C.*	WLOS
Spartanburg, S.C.	WSPA
Atlanta, GA.*	WAGA
Augusta, GA.	WJBF
Augusta, GA.	WRDW
Baltimore, Md.*	WJZ
Bangor, Me.*	[illegible]
Binghamton, N.Y.*	WBJA
Bluefield, W. Va.	WHIS
Boston, Mass.*	WNAC
Bristol, Va.	WCYB
Johnson City, Tenn.	WJHL
Buffalo, N.Y.*	WKBW
Cadillac, Mich.	WWTV
Sault Ste. Marie, Mich.	WWUP
Traverse City, Mich.	WPBN
Cheboygan, Mich.	WTOM
Charleston, S.C.*	[illegible]
Charlotte, N.C.	WBTV
Charlotte, N.C.	WSOC
Charlotte, N.C.	WCCB
Chattanooga, Tenn.*	WTVC
Cincinnati, Ohio*	WKRC
Cleveland, Ohio*	WEWS
Columbia, S.C.*	[illegible]
Columbus, GA.*	WTVM
Columbus, Ohio*	WTVN
Dayton, Ohio*	WLWD
Dayton, Ohio	WHIO
Dayton, Ohio	WKEF
Detroit, Mich.*	WXYZ

*Primary Affiliates

[1286]

CITY and STATE	CALL LETTERS	Voyage	FBI	Tweety's	Hope	Port Love	Farming	Reymond	Big Valley					Saturday	Mr.	Wells Morris	Eleanor	F-Troop	Gentleman	Chicago	This Girl	Shows	Fiesta			Dinner	Awakening	Darling			Welk	Prince

CITY and STATE	CALL LETTERS
Raleigh, N.C.*	WRAL
Richmond, Va.*	WXEX
Roanoke, Va.*	[illegible]
Rochester, N.Y.*	WROC
St. Petersburg, Fla.*	WLCY
Salisbury, Md.	WBOC
Savannah, Ga.	WSAV
Savannah, Ga.	WTOC
Scranton, Pa.*	WNEP
Steubenville, Ohio	WSTV
Wheeling, W. Va.	WTRF
Syracuse, N.Y.*	[illegible]
Terre Haute, Ind.	WTHI
Terre Haute, Ind.	[illegible]
Thomasville, Ga.	WCTV
Toledo, Ohio*	WSPD
Toledo, Ohio	WDHO
Utica, N.Y.	WKTV
Washington, D.C.*	WMAL
Watertown, N.Y.	WWNY
W. Palm Beach, Fla.*	WEAT
Wilmington, N.C.*	[illegible]
Youngstown, Ohio*	[illegible]
Zanesville, Ohio	WHIZ
Boston, Mass.	[illegible]
BURLINGTON, VT.	WCAX
[illegible]	[illegible]
CENTRAL	
Aberdeen, S.D.	KXAB
Ada, Okla.*	KTEN
Alexandria, Minn.	KCMT
Walker, Minn.	KNMT
Amarillo, Tex.*	[illegible]
Austin, Minn.*	KMMT
Austin, Tex.	KTBC
Austin, Tex.	[illegible]

*Primary affiliate

[1288]

CITY and STATE	CALL LETTERS	VOYAGE	FBI	SUN MOVIE	IRON HORSE	RAT PATROL	FELONY SQUAD	PEYTON I	VALLEY	COMBAT	INVADERS	PEYTON II	FUGITIVE	BATMAN II	MCHALES	WED MOVIE	BATMAN I	F TROOP	BEWITCH	ROOFTOP	THAT GIRL	STAGE 67	GREEN HORNET	TIME TUNNEL	RANGO	DILLER	AVENGER	DATING	NEWLY-WED	WELK	PALACE
Houston, Tex.*	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
Huntsville, Ala.*	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
Jackson, Miss.	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
Jackson, Miss.	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
Jackson, Tenn.*	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
Jonesboro, Ark.*	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
Joplin, Mo.	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
[illegible], Tex.	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
Kansas City, Mo.*	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
Kearney, Neb.*	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
Albion, Neb.*	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
Hayes Center, Neb.*	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
Superior, Neb.*	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
La Crosse, Wis.	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
Lafayette, La.*	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
Laredo, Tex.	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
Little Rock, Ark.*	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
Lubbock, Tex.	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
Lubbock, Tex.	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
Big Spring, Tex.	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
Lufkin, Tex.	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
Madison, Wisc.*	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
Memphis, Tenn.*	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
Meridian, Miss.	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
Milwaukee, Wis.*	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
Milwaukee, Wis.	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
Minneapolis, Minn.*	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
Minot, N.D.	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
Mobile, Ala.*	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
Moline, Ill.*	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
Monahans, Tex.*	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
Montgomery, Ala.*	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
Nashville, Tenn.*	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
New Orleans, La.*	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
Oklahoma City, Okla.*	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
Omaha, Neb.*	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
Ottumwa, Iowa	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
Panama City, Fla.	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
Pembina, N.D.*	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]

*Primary Affiliate

[1290]

CITY and STATE	CALL LET-TERS	VOYAGE	FBI	SUN. MOVIE	IRON HORSE	RAT PATROL	FELONY SQUAD	PEYTON I	VALLEY	COMBAT	INVADERS	PEYTON II	FUGITIVE	BATMAN I	MONROES	WED. MOVIE	BATMAN II	F TROOP	BEWITCHED	[illegible]	THAT GIRL	STAGE 67	GARRISON	[illegible]	TIME TUNNEL	RANGO	DILLER	AVENGERS	DATING GAME	NEWLYWED GAME	WELK	PALACE
[illegible], Ill.*	[illegible]																															
[illegible], Ill.*	[illegible]																															
St. Joseph, Mo.	[illegible]																															
St. Louis, Mo.*	[illegible]																															
St. Louis, Mo.	[illegible]																															
San Angelo, Tex.	[illegible]																															
Abilene, Tex.	[illegible]																															
San Angelo, Tex.	[illegible]																															
San Antonio, Tex.*	[illegible]																															
[illegible], Ala.*	[illegible]																															
Shreveport, La.*	[illegible]																															
Sioux City, Iowa	[illegible]																															
Sioux City, Iowa	[illegible]																															
Sioux Falls, S.D.	[illegible]																															
Sioux Falls, S.D.	[illegible]																															
Florence, S.D.	[illegible]																															
[illegible], S.D.	[illegible]																															
South Bend, Ind.*	[illegible]																															
Springfield, Mo.	[illegible]																															
Springfield, Mo.	[illegible]																															
[illegible], Tex.	[illegible]																															
Topeka, Kan.	[illegible]																															
Tulsa, Okla.*	[illegible]																															
[illegible], Ore.	[illegible]																															
Tyler, Tex.	[illegible]																															
Waco, Tex.	[illegible]																															
Bryan, Tex.	[illegible]																															
[illegible]	[illegible]																															
Wichita, Kan.*	[illegible]																															
Garden City, Kan.	[illegible]																															
Wichita Falls, Tex.	[illegible]																															
[illegible]	[illegible]																															
MOUNTAIN																																
Albuquerque, N.Mex.	[illegible]																															
Billings, Mont.	[illegible]																															
Billings, Mont.	[illegible]																															
Boise, Idaho	[illegible]																															

*Primary Affiliate

[1291]

[1292]

CITY and STATE	CALL LETTERS
Chico, Cal.	KHSL
Fresno, Cal.	KJEO
Klamath Falls, Ore.*	KOTI
Las Vegas, Nev.*	[illegible]
Los Angeles, Cal.	KABC
Medford, Ore.	[illegible]
Medford, Ore.	[illegible]
Portland, Ore.*	[illegible]
Redding, Cal.*	KRCR
Sacramento, Cal.*	[illegible]
San Diego, Cal.*	[illegible]
San Francisco, Cal.*	KGO
San Jose, Cal.*	[illegible]
Santa Barbara, Cal.*	[illegible]
Seattle, Wash.*	[illegible]
Spokane, Wash.*	[illegible]
[illegible], Wash.	[illegible]
[illegible], Wash.	[illegible]
Lewiston, Ida.	[illegible]
[illegible], Wash.	[illegible]
Richland, Wash.	[illegible]
[illegible], Ariz.	[illegible]
[illegible], Ariz.	[illegible]
[illegible]	[illegible]
[illegible], GUAM	[illegible]
Anchorage, Alas.	[illegible]
Fairbanks, Alas.	[illegible]
Honolulu, Hawaii*	[illegible]
[illegible], Hawaii*	[illegible]
Hilo, Hawaii*	[illegible]
[illegible], Hawaii*	[illegible]
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Live	
Delay	
Total	
Coverage	[illegible]
Live	
Delay	
Total	

*Primary Affiliate

ABC-TV SAT-SUN DAYTIME MASTER LINEUP

PAGE 1

CITY and STATE	CALL LETTERS	[illegible]
EASTERN		
[illegible]	[illegible]	[illegible]

ABC TV MON-FRI DAYTIME MASTER LINEUP

PAGE 1

1030	1055	1100	1130	1200	1230	100	200	230	210	300	330	400
[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]

ABC-TV SAT-SUN DAYTIME MASTER LINEUP

PAGE 2

ABC-TV MON-FRI DAYTIME MASTER LINEUP

PAGE 3

CITY and STATE	CALL LETTERS
[illegible]	[illegible]

ABC TV SAT-SUNDAYTIME MASTER LINEUP

PAGE 1

City and State	Call Letters	[illegible]
[illegible]	[illegible]	[illegible]

*Primary Affiliates

ABC TV MON-FRIDAYTIME MASTER LINEUP

PAGE 2

[illegible]
[illegible]

ABC-TV SAT.-SUN. DAYTIME MASTER LINEUP

ABC TV MON FRI DAYTIME MASTER LINEUP

City and State	Call Letters
Baton Rouge, La.	[illegible]
Baton Rouge, La.	[illegible]
Beaumont, Tex.*	[illegible]
Biloxi, Miss.*	[illegible]
Binghamton, N.Y.*	[illegible]
Bismarck, N.D.	[illegible]
Minot, N.D.	[illegible]
[illegible], N.D.	[illegible]
Bismarck, N.D.	[illegible]
Bowling Green, Ky.*	[illegible]
Cedar Rapids, Iowa*	[illegible]
Chicago, Ill.*	[illegible]
Columbus, Ga.	[illegible]
Jefferson City, Mo.	[illegible]
Sedalia, Mo.	[illegible]
Columbus, Miss.	[illegible]
Corpus Christi, Tex.*	[illegible]
Dallas, Tex.*	[illegible]
Decatur, Ill.*	[illegible]
Des Moines, Iowa*	[illegible]
Dothan, Ala.	[illegible]
Duluth, Minn.*	[illegible]
Eau Claire, Wis.	[illegible]
El Dorado, Ark.	[illegible]
[illegible], La.	[illegible]
Evansville, Ind.*	[illegible]
Fargo, N.D.*	[illegible]
Florence, Ala.	[illegible]
Ft. Smith, Ark.	[illegible]
Green Bay, Wis.	[illegible]
Greenwood, Miss.*	[illegible]
Hannibal, Mo.	[illegible]
Quincy, Ill.	[illegible]
Harlingen, Tex.	[illegible]
[illegible], Tex.	[illegible]
Harrisburg, Ill.*	[illegible]
Harrisonburg, Va.	[illegible]
Hays, Kan.	[illegible]
Goodland, Kan.	[illegible]

*Primary affiliate

[1297]

ABC-TV SAT-SUN DAYTIME MASTER LINEUP

CITY and STATE	CALL LETTERS

ABC TV MON FRI DAYTIME MASTER LINEUP

* Primary Affiliate

[1298]

ABC-TV SAT-SUN DAYTIME MASTER LINEUP

PAGE [illegible]

CITY and STATE	CALL LETTERS		Porky Pig	King Kong	Beatles	Casper	Milton	Bugs	Magilla	[illegible]	American Bandstand		Beany & Cecil	[illegible]	[illegible]	Bullwinkle	Discovery		
[illegible]	[illegible]		[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]		[illegible]	[illegible]	[illegible]	[illegible]	[illegible]		

ABC-TV MON-FRI DAYTIME MASTER LINEUP

PAGE [illegible]

[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]				
[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]				

AVAILABLE

bound volume

[1299]

ABC-TV SAT-SUN DAYTIME MASTER LINEUP

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CITY and STATE	CALL LETTERS		Porky Pig	King Kong	Beatles	Casper	Milton	[illegible]	[illegible]	[illegible]	American Bandstand		[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
[illegible]	[illegible]		[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]		[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]

* Primary Affiliate

ABC TV MON FRI DAYTIME MASTER LINEUP

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[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]

[1300]

ABC-TV SAT-SUN DAYTIME MASTER LINEUP

CITY and STATE	CALL LETTERS	[illegible]
[illegible]	[illegible]	[illegible]
Live		[illegible]
Delay		[illegible]
Total		[illegible]
Coverage		[illegible]
Live		[illegible]
Delay		[illegible]
Total		[illegible]

ABC-TV MON-FRI DAYTIME MASTER LINEUP

[illegible]
[illegible]

*Primary affiliate

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CITY and STATE	CALL LETTERS		ABC SCOPE	DIRECTIONS	ISSUES & ANSWERS	PETER JENNINGS	WEEKEND NEWS SATURDAY	WEEKEND NEWS SUNDAY	WIDE WORLD OF SPORTS	NBA	
EASTERN											
Akron, Ohio	WAKR-TV		Sun 3PM		✓	✓	12:00AM	✓	✓	✓	
Albany, Ga.	WALB-TV									✓	
Albany, N.Y.	WAST					✓	1:00AM	1:00AM	✓	✓	
Altoona, Pa.	WFBG-TV										
Johnstown, Pa.	WARD-TV								✓	✓	
Johnstown, Pa.	WJAC-TV							12:10AM			
Anderson, S.C.	WAIM-TV		Sun 1PM		✓		12:00AM	✓	✓	✓	
Asheville, N.C.	WLOS-TV		Sun 1PM			✓	12:00AM	12:00AM	✓	✓	
Spartanburg, S.C.	WSPA										
Atlanta, Ga.	WAII-TV		Sun 2PM			✓	1:00AM	1:00AM	Sun 2:30PM	✓	
Augusta, Ga.	WJBF						✓	12:00AM	Sun 1PM		
Augusta, Ga.	WRDW-TV				✓					✓	
Baltimore, Md.	WJZ-TV		Sun 3PM	✓	✓	✓	11:30PM	12:45PM	✓	✓	
Bangor, Me.	WEMT			✓	✓	✓			✓	✓	
Binghamton, NY	WBJA-TV			✓	✓	✓	✓	✓	✓	✓	
Bluefield, W Va.	WHIS-TV								✓	✓	
Boston, Mass.	WNAC-TV				Sun 2:30PM	✓	2:00AM	12:45AM	✓	✓	
Bristol, Va.	WCYB-TV									✓	
Johnson City, Tenn.	WJHL-TV							✓	Sun 1PM		
Buffalo, N.Y.	WKBW-TV		Sun 12:30PM		Sun 2:30PM	✓	1:00AM	1:00AM	✓		
Cadillac, Mich.	WWTV								Sat 2PM		
Sault Ste. Marie, Mich.	WWUP-TV								Sat 2PM		
Traverse City, Mich.	WPBN-TV									✓	
Cheboygan, Mich.	WTOM-TV									✓	
Charleston, S.C.	WUSN-TV		Sun 12:30PM		✓	✓	12:00AM	✓	✓		
Charlotte, N.C.	WBTV						12:45AM	12:00AM			
Charlotte, N.C.	WSOC-TV								Sat 3:30PM	✓	
Charlotte, N.C.	WCCB-TV		✓			✓					
Chattanooga, Tenn.	WTVC		Sat 2:30PM		✓	✓	✓	✓	✓	✓	
Cincinnati, Ohio	WKRC-TV		Sun 4:30PM	✓	✓		12:30AM		✓	✓	
Cleveland, Ohio	WEWS					✓	12:15AM	12:15AM	Sat 2PM	✓	
Columbia, S.C.	WOLO-TV		✓	Sun 1PM	✓	✓	✓	✓	✓	✓	
Columbus, Ga.	WTVM					✓	12:30AM	11:45PM	✓		
Columbus, Ohio	WTVN-TV		Sun 2PM	✓	✓		✓	✓	✓	✓	
Dayton, Ohio	WLW-D					✓					
Dayton, Ohio	WHIO-TV								Sat 2PM		
Dayton, Ohio	WKEF			✓						✓	
Detroit, Mich.	WXYZ-TV		Sun 5PM	Sun 9AM	Sun 3:30PM	✓	✓	✓	✓	✓	

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CITY and STATE	CALL LETTERS		ABC SCOPE	DIRECTIONS	ISSUES & ANSWERS	PETER JENNINGS	WEEKEND (KIDS) SATURDAY	WEEKEND SUNDAY	WIDE WORLD OF SPORTS	NBA	
Fairmont, W.Va.	WDTV				✓	✓			✓	✓	
Flint, Mich.	WJRT-TV		Sun 1PM		✓	✓	12:30 PM		✓	✓	
Florence, S.C.	WBTW										
Ft. Wayne, Ind.	WPTA					✓	✓	✓	✓	✓	
Grand Rapids, Mich.	WZZM-TV		Sun 9:30A	✓	✓	✓	1:00 AM	11:15 PM	✓	✓	
Harrisburg, Pa.	WTPA					✓	12:00 M	12:30 AM	✓	✓	
Harrisonburg, Va.	WSVA-TV						✓			✓	
High Point, N.C.	WGHP-TV			Sun 12 N				✓	✓	✓	
Holyoke, Mass.	WHYN-TV		Sun 5PM		✓	✓	✓	✓	✓	✓	
Huntington, W.Va.	WHTN-TV		Sat 11:15P			✓	✓	✓	✓	✓	
Indianapolis, Ind.	WLW-I		Sun 12 N	✓	Mon 12:30A	✓	✓	11:30 PM	✓	✓	
Jacksonville, Fla.	WJKS		Sun 11:15P	✓	✓	✓	12:00 M	✓	✓	✓	
Knoxville, Tenn.	WTVK		✓	✓	✓	✓	✓	✓	✓	✓	
Lexington, Ky.	WKYT-TV				✓				✓	✓	
Lima, Ohio	WIMA-TV								✓	✓	
Louisville, Ky.	WLKY-TV		Sun 11:15P		✓	✓	1:00 AM	✓	✓	✓	
Lynchburg, Va.	WLVA-TV			✓	✓	✓	✓	✓	✓	✓	
Macon, Ga.	WMAZ-TV									✓	
Manchester, NH	WMUR-TV		✓		✓	✓	12:15 AM	✓	✓	✓	
Marquette, Mich.	WLUC-TV								Sat 3PM	✓	
Miami, Fla.	WLBW-TV		Sun 12 M		✓	✓	12:15 AM	12:00 M	Sat 4PM	✓	
Mt. Washington, NH	WMTW-TV		Sat 12M			✓	12:00 M	12:30 AM	✓	✓	
Muncie, Ind.	WLBC-TV									✓	
New Bern, NC	WNBE-TV		✓	✓	✓	✓	✓	✓	✓	✓	
New Haven, Conn.	WNHC-TV		Sun 12:30P		✓	✓			✓	✓	
New York, NY	WABC-TV		Sun 5PM	✓	✓	✓	✓	✓	✓	✓	
Norfolk, Va.	WVEC-TV				✓	✓	✓	✓	✓	✓	
Orlando, Fla.	WFTV		Sun 6 PM	Sun 5PM	✓	✓	✓	✓	✓	✓	
Parkersburg, W.Va.	WTAP-TV									✓	
Philadelphia, [illegible]	WFIL-TV			✓		✓	12:45 AM	12:45 AM	✓		
Pittsburg, Pa.	WTAE		Sun 9AM		✓	✓			✓	✓	
Plattsburgh, NY	WPTZ								Sat 3PM	✓	
Presque Isle, Me.	WAGM-TV								Sat 4:30P	✓	
Providence, R.I.	WTEV		Sun 12 N	✓	✓	✓	✓	✓	✓	✓	
Raleigh, NC	WRAL-TV		✓		Sun 7:30P	✓	✓	✓	Sat 12 N	✓	
Richmond, Va.	WXEX-TV				✓	✓	✓	✓	✓	✓	
Roanoke, Va.	WRFT		✓	✓	✓	✓	✓	✓	✓	✓	
Rochester, NY	WOKR-TV			✓			✓	✓	✓	✓	
St. Petersburg, Fla.	WLCY-TV					✓	1:00 AM	✓	✓	✓	

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CITY and STATE	CALL LETTERS		ABC Scope	Directions	Issues & Answers	[illegible]	Weekend News Saturday	Weekend News Sunday	Sunday — Wide World of Sports	NBA	
Salisbury, Md.	WBOC-TV										
Savannah, Ga.	WSAV-TV									✓	
Savannah, Ga.	WTOC-TV								✓		
Scranton, Pa.	WNEP-TV						1230PM	✓	✓	✓	
South Bend, Ind.	WSJV		Sun 1015P	✓	✓	✓	1130PM	✓	✓	✓	
Steubenville, Ohio	WSTV-TV									✓	
Wheeling, W.Va.	WTRF-TV								Sun 2PM		
Syracuse, NY	WNYS-TV		Sun 1PM		Sun 2PM	✓	1200M	✓	✓	✓	
Terre Haute, Ind.	WTHI-TV										
Terre Haute, Ind.	WTWO-TV								Sat 2PM	✓	
Thomasville, Ga.	WCTV									✓	
Toledo, Ohio	WSPD-TV			✓	✓	✓			✓	✓	
Utica, NY	WKTV							1245AM	Sat 2PM		
Washington, DC	WMAL-TV		Mon 7AM		✓	✓	145AM	1215AM	✓	✓	
Waterbury, Conn.	WATR-TV										
Watertown, NY	WWNY-TV						✓		Sat 1PM		
West Palm Beach, Fla.	WEAT-TV		Sun 1PM						✓	✓	
Wilmington, NC	WWAY			✓	✓	✓	1130PM	✓	✓	✓	
Youngstown, Ohio	WYTV			✓	✓	✓	1130PM	✓	✓	✓	
Zanesville, Ohio	WHIZ-TV									✓	
Erie, Pa.	WJET		✓	✓	✓	✓	✓	✓	✓	✓	
Philadelphia, Pa.	WIBF		✓		Sun [illegible]					[illegible] ✓	
Boston, Mass.	W[illegible]K		✓								
Oak Hill, W.Va.	WOAY		✓	✓	✓	✓	✓	✓	✓	✓	
Toledo CENTRAL	WDHO						✓	✓			
Ada, Okla.	KTEN		Sun 12N		✓	✓	✓	✓	✓	✓	
Alexandria, Minn.	KCMT										
Amarillo, Tex.	KVII				Sun 4PM	✓			✓	✓	
Austin, Minn.	KMMT			✓		✓			✓	✓	
Austin, Tex.	KTBC-TV						1230AM	1230AM	Sat 1130P	✓	
Austin, Tex.	KHFI			✓	✓						
Baton Rouge, La.	WAFB-TV						1130PM		✓		
Baton Rouge, La.	WBRZ									✓	
Beaumont, Tex.	KBMT			✓	✓	✓	✓	1130PM	✓	✓	
Biloxi, Miss.	WLOX-TV		✓	✓	✓	✓	✓	✓	✓	✓	
Birmingham, Ala.	WBRC-TV		Sun 1130P	Mon 1254	Sun 1155	✓	1130PM	1100PM	✓	✓	
Bismarck, N.D.	KFYR-TV				✓					✓	
Minot, N.D.	KMOT				✓					✓	
Williston, N.D.	KUMV-TV				✓					✓	

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CITY and STATE	CALL LETTERS		ABC Scope	Directions	Issues & Answers	Peter Jennings	Weekend News Saturday	Weekend News Sunday	Wide World of Sports	NBR	
Bismarck, N.D.	KXMB-TV										
Cedar Rapids, Iowa	KCRG-TV								✓		
Chicago, Ill.	WGKB-TV		Sun 10:?P	✓	✓	✓	11:?0 PM	11:00 PM	✓	✓	
Columbia, Mo	KOMU-TV		Sun 11 PM	✓	✓	✓	✓	✓	✓	✓	
Jefferson City, Mo.	KRCG-TV								Sat ?:30 P	✓	
Sedalia, Mo.	KMOS-TV										
Columbus, Miss.	WCBI-TV										
Corpus Christi, Tex.	KIII		Sun ??P						✓		
Dallas, Texas	WFAA-TV					✓	✓		✓	✓	
Decatur, Ill.	WAND					✓	12:30 AM	12:30 AM	✓	✓	
Des Moines, Iowa	WOI-TV		Sun 11 PM	✓	Sun 11:55P	✓	✓	✓	✓	✓	
Dothan, Ala.	WTVY		Sun 11:30P	✓	✓	✓		12:00 M	✓	✓	
Duluth, Minn.	WDIO-TV										
Eau Claire, Wisc.	WEAU-TV		Sun 4:30P	✓	✓	✓	✓	✓	✓	✓	
El Dorado, Ark.	KTVE								✓	✓	
Evansville, Ind.	WTVW								✓	✓	
Monroe, La.	KNOE-TV		Sun 11 AM	✓	✓	✓	12:45 AM	11:15 PM	✓	✓	
Fargo, N.D.	KTHI-TV		✓	✓	✓	✓	✓	12:30 AM	✓	✓	
Florence, Ala.	WOWL										
Ft. Smith, Ark.	KFSA-TV			✓	✓						
Green Bay, Wisc	WLUK-TV			Sun 2 PM						✓	
Greenwood, Miss.	WABG-TV		✓			✓	12:00 M	12:00 M	✓	✓	
Hannibal, Mo.	KHQA-TV			✓	✓	✓	✓	✓	✓	✓	
Quincy, Ill	WGEM-TV										
Harlingen, Tex.	KGBT-TV								✓	✓	
Weslaco, Tex.	KRGV-TV								Sat 2:?P	✓	
Harrisburg, Ill.	WSIL-TV		✓	✓	✓	✓	✓	✓	✓	✓	
Poplar Bluff, Mo.	KPOB-TV										
Hattiesburg, Miss.	WDAM-TV										
Hays, Kan.	KAYS-TV									✓	
Goodland, Kan.	KLOE-TV										
Houston, Tex.	KTRK-TV					✓	10:15 PM	10:15 PM	✓	✓	
Huntsville, Ala.	WAAY					✓	✓	✓	✓	✓	
Jackson, Miss.	WJTV								Sat 4:30P		
Jackson, Miss.	WLBT									✓	
Jackson, Tenn. WBBJ	WGAL-TV		✓	✓	✓	✓	✓	✓	✓	✓	
Jonesboro, Ark.	KAIT-TV		✓	✓	✓	✓	✓	✓	✓	✓	
Joplin, Mo.	KODE-TV										
Pittsburg, Kan.	KOAM-TV								✓	✓	

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CITY and STATE	CALL LETTERS		ABC Scope	Directions	Issues & Answers	Peter Jennings	Weekend News Saturday	Weekend News Sunday	Wide World of Sports	NBA	
Kansas City, Mo.	KMBC-TV				Sun 12N		1200 M	1200 PM	✓	✓	
Kearney, Neb.	KHOL-TV		✓	✓	✓	✓	✓	✓	✓	✓	
Albion, Neb	KHQL-TV		✓	✓	✓	✓	✓	✓	✓	–	
Hayes Center, Neb.	KHPL-TV		✓	✓	✓	✓	✓	✓	✓	✓	
Superior, Neb.	KHTL-TV		✓	✓	✓	✓	✓	✓	✓	✓	
La Crosse, Wisc.	WKBT								✓		
Lafayette, La.	KATC		Sun 10 AM	Sun 10:45 P	✓	✓	1130 PM	1015 PM	✓	✓	
Laredo, Tex.	KGNS-TV								✓	✓	
Little Rock, Ark.	KATV		Sun 12 N			✓			✓	✓	
Lubbock, Tex.	KCBD-TV										
Lubbock, Tex.	KLBK-TV								Sat 2 PM	✓	
Big Spring, Tex.	KWAB-TV								Sat 2 PM	✓	
Lufkin, Tex.	KTRE-TV								✓	✓	
Madison, Wisc.	WKOW-TV		Sun 4 PM	Sun 2 PM	Sun 4:30 P	✓	✓		✓	✓	
Memphis, Tenn.	WHBQ-TV					✓	1200 M	12:00 M	Sat 1 P	✓	
Meridian, Miss.	WTOK-TV								✓		
Milwaukee, Wisc.	WITI-TV			Sun 1:30 P	Sun 2:30 P	✓			Sat 1 PM	✓	
Minneapolis, Minn.	KMSP-TV		Sun 12 N		✓	✓	1215 AM	1215 AM	✓	✓	
Minot, ND	KXMC-TV										
Mobile, Ala.	WEAR TV					✓			✓	✓	
Moline, Ill.	WQAD TV		✓	✓	Sun 11:30 AM				✓	✓	
Monahans, Odessa, Tex.	KVKM-TV			✓	✓	✓	1145 PM	1145 PM	✓	✓	
Montgomery, Ala.	WKAB-TV		✓	✓	✓	✓	✓	✓	✓	✓	
Nashville, Tenn.	WSIX-TV		Sun 5 PM	✓	✓	✓	1200 M	1115 PM	✓	✓	
New Orleans, La.	WVUE		Sun 1:30 P	✓	✓			1145 PM	✓		
Oklahoma City, Okla.	KOCO-TV					✓		1230 AM	✓	✓	
Omaha, Neb.	KETV		Sun 12 N			✓		1200 M	✓	✓	
Ottumwa, Iowa	KTVO									✓	
Panama City, Fla.	WJHG-TV									✓	
Pembina, ND	KCND-TV					✓			✓		
Peoria, Ill.	WIRL-TV			✓	✓	✓		1200 M	✓	✓	
Rockford, Ill.	WREX-TV				✓	✓	1230 PM		✓	✓	
Rockford, Ill.	WTVO										
Rockford, Ill.	WCEE-TV										
St. Joseph, Mo.	KFEQ-TV									✓	
St. Louis, Mo.	KTVI		Sun 12 N			✓	1115 PM	1200 M	✓	✓	
Salina, Kan.	KSLN-TV										
San Angelo, Tex.	KCTV								Sun 12 N		
San Antonio, Tex.	KONO-TV		Sun 12:30 P			✓	130 AM	1200 M	✓	✓	

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CITY and STATE	CALL LET-TERS		ABC Scope	Directions	Issues & Answers	Peter Jennings	Weekend News Saturday	Weekend News Sunday	Wide World of Sports	NBA	
Selma, Ala.	WSLA-TV					✓			✓	✓	
Shreveport, La.	KTBS-TV		Sat 415P	✓	✓	✓	1130 PM	1130 PM	✓	✓	
Sioux City, Iowa	KTIV										
Sioux City, Iowa	KVTV								Sat 130P	✓	
Sioux Falls, SD	KSOO-TV									✓	
Sioux Falls, SD	KELO-TV								Sat 230P		
Florence, SD	KDLO-TV								Sat 230P		
Reliance, SD	KPLO-TV								Sat 230P		
Springfield, Mo.	KTTS-TV									✓	
Springfield, Mo.	KYTV								✓		
Sweetwater, Tex. KTXS	KPAR-TV								Sat 2PM	✓	
Abilene, Tex.	KRBC-TV										
San Angelo, Tex.	KACB TV										
Topeka, Kan.	WIBW-TV									✓	
Tulsa, Okla.	KTUL-TV					✓			✓	✓	
Tupelo, Miss.	WTWV					✓			✓	✓	
Tyler, Tex.	KLTV								✓	✓	
Waco, Tex.	KWTX								✓	✓	
Bryan, Tex.	KBTX-TV								✓	✓	
Wausau, Wisc.	WAOW		Sun 4PM	Sun 2PM	Sun 130P	✓	✓	1200 M	✓	✓	
Witchita, Kan.	KAKE-TV					✓	1200 M	1200 M	✓	✓	
Garden City, Kan.	KUPK-TV					✓	1100 M	1100 M	✓	✓	
Wichita Falls, Tex.	KSWO-TV		Sun 12N	✓	✓	✓	✓	✓	✓	✓	
Bowling Green Ky.	WLTV			✓	✓	✓			✓	✓	
Aberdeen, SD	KXAB									✓	
MOUNTAIN											
Albuquerque, N.Mex.	KOAT-TV			Sun 130P	✓	✓	1200 M	1200 M	✓	✓	
Billings, Mont.	KULR-TV										
Billings, Mont.	KOOK-TV		Sun 130P	✓	✓				✓	✓	
Boise, Idaho	KBOI-TV										
Boise, Idaho	KTVB						1100 PM	✓	✓	✓	
La Grande, Ore.	KTVR						1100 PM	✓	✓	✓	
Butte Mont.	KXLF-TV		Sat 130P	✓	✓				✓	✓	
Casper, Wyo.	KTWO TV								✓	✓	
Cheyenne, Wyo.	KFBC-TV								✓	✓	
Scottsbluff, Neb.	KSTF								✓	✓	
Sterling, Colo.	KTVS								✓	✓	

AVAILABLE

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CITY and STATE	CALL LETTERS		ABC Scope	Directions	Issues & Answers	Peter Jennings	Weekend News Saturday	Weekend News Sunday	Wide World of Sports	NBA	
Colo Springs, Colo.	KRDO-TV				✓	✓			✓	✓	
Denver, Colo.	KBTV		Sun 10 P	✓	✓	✓	11:15 PM	11:15 PM	✓	✓	
Dickinson, ND	KDIX-TV								✓		
El Paso, Tex.	KELP-TV			✓	✓	✓			✓	✓	
Glendive, Mont.	KXGN-TV								✓		
Grand Junction, Colo.	KREX TV								✓		
Durango, Colo	KREZ TV								✓		
Montrose, Colo	KREY TV								✓		
Great Falls, Mont	KFBB-TV		Sat 10 AM	✓	✓				✓	✓	
Great Falls, Mont.	KRTV										
Helena, Mont.	KHLL TV								✓	✓	
Idaho Falls, Idaho	KID TV		Sat 11 AM	✓	✓				✓	✓	
Idaho Falls, Idaho	KIFI-TV										
Missoula, Mont	KGVO-TV									✓	
Phoenix, Ariz.	KTVK		✓	✓	✓	✓	10:00 PM	✓	✓	✓	
Rapid City, SD	KOTA TV								✓	✓	
Hay Springs, Neb.	KUOH TV								✓	✓	
Rapid City, SD	KRSD TV										
Deadwood, SD	KDSJ-TV										
Riverton, Wyo.	KWRB-TV		Sun 12 N	✓	✓		12:00 M	✓	✓	✓	
Carlsbad, New Mex	KAVE										
Roswell, N. Mexico	KSWS-TV										
Salt Lake City, Utah	KCPX-TV		Sun 12 N	✓	✓		10:30 PM	✓	✓	✓	
Tucson, Ariz.	KGUN TV		Sun 10 AM	Sun 12:30 P	Sun 1 PM	✓			✓	✓	
Twin Falls, Idaho	KMVT			✓	✓		10:00 PM		✓	✓	
CARLSBAD, N.M.	KAVE			✓	✓	✓	11:45 PM	11:45 PM	✓	✓	
LEAD, S.D.	KHSD								✓	✓	
PACIFIC											
Bakersfield, Cal.	KLYD-TV		Sun 2 PM	✓	✓	✓	✓	✓	✓	✓	
Eugene, Ore	KEZI-TV			✓	✓	✓		✓	✓	✓	
Eureka, Cal.	KVIQ-TV										
Eureka, Cal.	KIEM TV				✓	✓			✓	✓	
Fresno, Cal.	KJEO-TV		✓	✓		✓	12:00 M	✓	✓	✓	
Klamath Falls, Ore	KOTI					✓			✓	✓	
Las Vegas, Nev.	KSHO-TV		✓	✓	✓	✓	12:00 M	12:00 M	✓	✓	
Los Angeles, Cal.	KABC-TV		Sun 5 PM	✓	✓	✓	✓	✓	✓	✓	
Medford, Ore	KTVM									✓	

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CITY and STATE	CALL LETTERS		ABC Scope	Directions	Issues & Answers	[illegible]	Weekend News Saturday	Weekend News Sunday	Wide World of Sports	NBA	
Medford, Ore.	KMED-TV				✓				✓		
Portland, Ore.	KATU		Sun [illegible] P	✓	✓	✓	✓	✓	✓	✓	
Redding, Cal.	KRCR TV		Sun 1 PM	✓	✓			12:00 M	✓	✓	
Chico, Cal.	KHSL-TV										
Reno, Nev.	KOLO-TV									✓	
Reno, Nev.	KCRL										
Sacramento, Cal.	KOVR-TV		Sun 1 PM		✓	✓		✓	✓	✓	
San Diego, Cal.	XETV		Sun 3:30 P			✓			✓	✓	
San Francisco, Cal.	KGO-TV		Sun 5 PM	✓	✓	✓	✓	✓	✓	✓	
San Jose, Cal.	KNTV					✓	✓	✓	✓	✓	
Santa Barbara, Cal.	KEY-T		✓	✓	✓	✓	✓	✓	✓	✓	
Seattle, Wash.	KOMO-TV		Sun 4:30 P	✓	✓	✓	11:15 PM	12:15 AM	✓	✓	
Spokane, Wash	KREM-TV		Sun 2 PM	✓	✓	✓	✓	✓	✓	✓	
Yakima, Wash.	KIMA-TV								✓	✓	
Pasco, Wash.	KEPR-TV								✓	✓	
Lewisson, Ida	KLEW-TV								✓	✓	
Yakima, Wash	KNDO-TV										
Richland, Wash.	KNDU-TV										
Yuma, Ariz.	KIVA							✓	Sat 3 PM	✓	
Charlotte Amalie, V.I.	WBNB								Sat 5:30 P		
OTHER											
Honolulu, Hawaii	KHVH		Sun [illegible] P			[illegible] 12 M	12:00 M	12:00 M	Sat 2:30 [illegible]	Sun [illegible]	
Hilo, Hawaii	KHVO		Sun [illegible] P			[illegible] 12 M	12:00 M	12:00 M	Sat 2:30 P	Sun [illegible]	
Wailuku, Hawaii	KMVI		Sun [illegible] P			[illegible] 12 M	12:00 M	12:00 M	Sat 2:30 P	Sun [illegible]	
Anchorage, Alas.	KENI								Sat 2 PM		
Fairbanks, Alas.	KFAR								Sun 2 PM		
Juneau, Alas	KINY								Sat [illegible]		
San Juan, P.R.	WAPA								Sat [illegible]		
TOTALS											
Live			27	73	97	126	54	67	175		
Delay			70	13	16	5	65	54	59		
COVERAGE											
Live			21.2	56.1	65.5	58.9	40.3	55.2	91.4		
Delay			55.7	2.6	12.6	—	26.1	31.3	6.4		

[1457] [Federal Communications Commission, Exhibit No. AR-76; presented by American Broadcasting Co.]

BROADCAST ADVERTISERS REPORTS, INC., 500 FIFTH AVENUE, NEW YORK, NEW YORK 10036 (212) 244-8111

BAR network TV dollar revenue estimates—Week ending: Mar. 26, 1967

[Net time and talent in thousands of dollars]

Day parts	Networks	Week ending Mar. 26, 1967	Cume Mar. 1-Mar. 26, 1967	Cume Jan. 1-Mar. 26, 1967
Monday-Friday, sign on 10:00 AM	ABC-TV	....	....	....
	CBS-TV	125.5	534.7	1662.1
	NBC-TV	306.6	1189.2	3514.7
		432.1	1723.9	5176.8
Monday-Friday, 10:00 AM-6:00 PM	ABC-TV	1509.2	5654.8	18673.9
	CBS-TV	3586.5	12769.9	43144.5
	NBC-TV	1832.0	6553.0	22124.9
		7017.7	24977.7	83943.3
Saturday-Sunday, sign on 6:00 PM	ABC-TV	1215.6	4733.5	11416.7
	CBS-TV	744.3	3335.4	13122.1
	NBC-TV	267.1	1299.8	6389.7
		2227.0	8868.7	30928.5
*Monday-Saturday, 6:00 PM-7:30 PM	ABC-TV	331.8	1167.0	3698.3
	CBS-TV	667.9	2328.7	8227.4
	NBC-TV	541.9	1996.7	7402.9
		1541.6	5492.4	19328.6
Saturday, 6:00 PM-7:30 PM	ABC-TV	708.7	1008.3	2096.6
	CBS-TV	239.2	859.7	3885.6
	NBC-TV	297.4	814.1	2734.2
		1245.3	2682.1	8716.4
*Monday-Sunday, 6:00 PM-7:30 PM	ABC-TV	*1040.5	*2175.3	*5794.9
	CBS-TV	*907.1	*3188.4	*12113.0
	NBC-TV	*839.3	*2810.8	*10137.1
		*2786.9	*8174.5	*28045.0
	ABC-TV	5843.4	21432.6	69845.9
	CSB-TV	6327.2	23407.2	77233.4
Monday-Sunday, 7:30 PM-11:00 PM	NBC-TV	6306.5	24439.0	78066.1
		18477.1	69278.8	225145.4
Monday-Sunday, 11:00 PM-Sign off	ABC-TV	30.0	355.2	866.6
	CBS-TV	37.4	149.3	575.3
	NBC-TV	407.1	1467.7	4538.3
		474.5	1972.2	5980.2
Network totals	ABC-TV	9728.7	33851.4	106598.0
	CBS-TV	11728.0	43384.9	147850.4
	NBC-TV	9958.6	37759.5	124770.8
Grand totals, all networks	....	31415.3	114995.8	379219.2

*The sum of the figures in the two preceding day parts. (Not considered in the totals.)

[1485] [Exhibit No. AR-81]

DAVIS POLK WARDWELL
SUNDERLAND & KIENDL,
New York, N.Y., April 17, 1967.

INTERNATIONAL TELEPHONE AND
TELEGRAPH CORPORATION,
New York, N.Y.

DEAR SIRS: Pursuant to your request we have reviewed the corporate minutes of the regular meeting of the ITT Board of Directors held on October 12, 1966, including in particular references in the minutes to the status of the proposed merger with ABC and the commitment by ITT to furnish ABC financial resources approximating $50,000,000 over a three to five year period. In our opinion, based on our knowledge and understanding of the normal procedures which obtain with respect to approval by the ITT Board of Directors, the action reflected in the minutes of the meeting of the ITT Board of Directors held on October 12, 1966 constituted approval by the ITT Board of Directors of the commitment of ITT to furnish ABC financial resources approximating $50.000.000 over three to five year period.

Very truly yours,

DAVIS POLK WARDWELL
SUNDERLAND & KIENDL.

[1522] [Exhibit No. AR-83]

CERTIFICATE

I, WILLIAM J. DONOVAN, the undersigned, do hereby certify that I am Assistant Secretary of INTERNATIONAL TELEPHONE AND TELEGRAPH CORPORATION (ITT) and that attached hereto are true and correct copies of excerpts from minutes of, and of resolutions adopted at, meetings of the Board of Directors and Executive Committee of that Corporation duly called and held during the period January 1, 1963 to March 8, 1967, inclusive, on dates as indicated in the

attached, with respect to the matters indicated below, a quorum having been present and acting throughout in the case of each such meeting, the resolutions therein being still in full force and effect:

(1) Contracts, negotiations, discussions, or contacts with foreign governments, agencies thereof, or corporations controlled by them.

(2) Entry by way of acquisition or otherwise by ITT into broadcasting, networking, CATV or pay TV.

(3) Ultra High Frequency.

(4) Purchases or possible purchases of equipment and supplies by ITT subsidiaries or divisions from other ITT subsidiaries or divisions.

(5) Interdependence or autonomy of ITT subsidiaries and divisions.

(6) Reciprocity in purchases or sales as between ITT and suppliers to and purchasers from ITT.

[1523] (7) Positions taken or to be taken by ITT or its subsidiaries and divisions before domestic or foreign regulatory bodies.

IN WITNESS WHEREOF, I have hereunto affixed my signature and the corporate seal of said INTERNATIONAL TELEPHONE AND TELEGRAPH CORPORATION, this 24th day of April, 1967.

WILLIAM J. DONOVAN.

[1524] EXCERPT—MEETING JUNE 12, 1963

Mr. Westfall discussed the proposed South American Cable Project which would circle South America and indicated that the bulk of the cable for this project would be manufactured by Standard Telephones and Cables Limited (STC). He also indicated that most of the financing for STC would be furnished by the Export Credits Guarantee Department of the Government of the United Kingdom.

The President reviewed the Japanese tax problem and indicated that an attachment had recently been levied on the assets of International Standard Electric Corporation (ISE) in Japan. He also indicated that the company proposed to put up a

portion of its shares in Nippon Electric Company, Limited (NEC) as security rather than permit the Japanese Tax Administration to attach the current dividends and royalty payments due from NEC and Sumitomo Electric Industries. Limited.

EXCERPT—MEETING JULY 10, 1963

He also commented on the activities of Empresa Nacional de Telecommunicationes, Buenos Aires and developments in the consumer products field in Argentina. He advised that in Chile negotiations on the rate increase were continuing and that the Chilean ambassador was to be in New York City Thursday for a further round of negotiations. He reported that in Peru a new government was to go into office in the latter part of July and that we propose to hold the status quo until the new government was operating.

Mr. Brittenham gave a report on the status of the Japanese tax claim against International Standard Electric Corporation (ISE) and advised that the attachment of Nippon Electric Company shares held by ISE would probably take effect this week. He also advised that the U.S.-Japanese Tax Treaty had been formally invoked by the State Department.

[1525] EXCERPT—MEETING JULY 10, 1963

The President advised the Board that it was proposed to reorganize the ITT System's communications activities in the Republic of Bolivia (the Republic), generally to permit said Republic to operate the internal telecommunications services in that country and All America Cables and Radio, Inc. (AAC&R, Inc.), a wholly [1526] owned indirect subsidiary of the Corporation, or another ITT System company, to operate the international telecommunications services to and from said Republic. In order to accomplish this, he said, the following steps were proposed:

(a) Compania Internacional de Radio Boliviana (Cirbol), a 87.93% owned subsidiary of the Corporation (the remaining 12.07% being owned by the Republic), would surrender its international telecommunications concession, would transfer to AAC&R, Inc., or another

subsidiary of the ITT System, all its equipment used in international telecommunications service, and would, after donation by the Corporation to the Republic of all the capital stock of Cirbol, continue as a company of the Republic to operate the internal telecommunications services in the Republic, all to be without tax pursuant to agreement with the Republic.

(b) AAC&R, Inc. would give up its concession to operate in the Republic internal telecommunications services, would transfer the equipment used to perform such services to Cirbol in return for the transfer to it of all the equipment used by Cirbol in its international telecommunications service operations, which equipment would then be operated in conjunction with AAC&R, Inc.'s own [1527] international telecommunications equipment in international telecommunications services to and from the Republic under a 20-year concession from the Republic.

He said that it was deemed desirable by the management of the Corporation that a power of attorney be granted to a Bolivian resident to represent the Corporation in negotiations with the Republic in the above matter, and to take such relevant action, including the incorporation of a Bolivian company to take over the proposed operations in Bolivia of AAC&R, Inc., as may be necessary or desirable, and that the power of attorney name Alberto Delgado M., General Manager of Cirbol, the attorney-in-fact therein. He recommended that the Board give the necessary authorization.

Thereupon, on motion duly made and seconded, it was

Resolved, that the President or any Vice President and the Secretary or any Assistant Secretary of the Corporation be, and hereby they are, authorized to execute in the name and on behalf of the Corporation a power of attorney, in full in law as may be required, to Alberto Delgado M., domiciled in La Paz, Bolivia, (a) to proceed to transfer to the Bolivian Government the shares that the Corporation owns in Compania Internacional de Radio Boliviana S.A., (b) to organize a Bolivian corpo-

ration to operate in Bolivia an international telecommunication service in substitution for All America Cables and Radio, Inc., and generally, for those purposes, (c) to grant to said attorney-in-fact, Mr. Alberto Delgado M., the general authority of a power of attorney and specially the authorization to sign documents, applications, instructions of contracts, private and public contracts, to transfer, [1528] establishing prices, terms and conditions, to organize a corporation by stock, subscribe and pay capital, to sign instructions of contracts and public contracts to constitute a corporation, to approve by-laws, to attend general meetings of stockholders to organize and establish the corporation, to vote in said general meetings of stockholders on any matter concerning the organization and administration of the corporation, to establish conditions, to obtain juridical statute of the corporation and to perform any and all things that would be necessary or are desirable for the accomplishment of the power of attorney, which shall be granted with the authorization to substitute and to reassume.

[1529] EXCERPT—MEETING JULY 10, 1963

The President advised that ITT Philippines, Incorporated, a 97.27% owned subsidiary of International Standard Electric Corporation (ISE), a wholly-owned subsidiary of the Corporation, had signed an agreement with the Republic of the Philippines (the Republic) for the manufacture, delivery and installation of equipment, materials and supplies at a cost of $11,880,000 for a nationwide telecommunications expansion and improvement project, such equipment, materials and supplies to be supplied under separate Supply Agreements between the Republic and three manufacturing subsidiaries of ISE, Bell Telephone Manufacturing Company (Belgium), Standard Elektrik Lorenz A. G. (Germany), and Standard Telephones and Cables Pty. Limited (Australia), and a wholly-owned subsidiary [1530] of the Corporation, ITT Export Corporation (U.S.). He stated that the agreement was procured on the basis that the costs would be substantially financed by means

of loans obtained in the respective countries of the suppplying companies and guaranteed by the respective export guarantee authorities of such countries, and that such loans had been arranged by the European and Australian subsidiaries in amounts varying between 80% and 85% of the contract prices in their respective Supply Agreements.

He stated that Morgan Guaranty Trust Company of New York (Morgan) had agreed to lend an amount not in excess of $4.253.400 to the Republic in order to finance 90% of the contract price of equipment to be supplied by ITT Export Corporation (Export) providing, among other things, that the payment of the loan would be guaranteed by the Export-Import Bank of Washington (Eximbank) to the extent of 90% and that the Corporation would agree to accept recourse to the extent of the remaining 10%, an amount not in excess of $425.340.

He stated further that the Treasurer had executed on behalf of the Corporation an agreement with Morgan dated as of June 11, 1963, a copy of which was submitted to the meeting and directed to be filed with the records of the Corporation, agreeing upon certain terms and conditions to accept recourse in respect of 10% [1531] of such loan and to make and receive certain payments as specified, and he asked that the Board ratify the execution of such Agreement with Morgan.

Thereupon, after discussion of the Agreement submitted to the meeting, on motion duly made and seconded, it was

> Resolved, that the form, terms and provisions of the Agreement between the Corporation and Morgan Guaranty Trust Company of New York, dated as of June 11, 1963, which has been submitted to this meeting, are hereby in all respects approved and ratified, and that the action of Hart Perry, Treasurer of the Corporation, in executing such agreement in the name and on behalf of the Corporation, be, and hereby such action is, authorized, approved and ratified.

[1532] EXCERPT—MEETING AUGUST 14, 1963

A review was made by the President of the current status of the Japanese tax claim. It was indicated that the Corporation

foresaw little hope of success if the matter were to be decided by the Japanese courts. A discussion was held of the possible means of getting political help in resolving this case.

Mr. Westfall discussed recent developments in Chile including the rate increase recently granted, the microwave project, and the possiblity of local manufacturing. He advised that the Chilean Government had indicated it intended to take over the entire microwave network.

EXCERPT—MEETING SEPTEMBER 11, 1963

A discussion was held concerning the possible acquisition of a radio and TV station which could be acquired for cash or Convertible Debentures.

The President commented on the status of the Japanese Tax Claim and advised that ITT had filed a preliminary legal memorandum with the Treasury Department.

EXCERPT—MEETING OCTOBER 1, 1963

The possible acquisition of a TV station was reviewed by the President. He indicated that the station under consideration had an excellent reputation in the TV field, was entirely debt-free and that the owners were willing to [1533] consider either a cash offer or convertible debentures. He discussed the growth and projected earnings of the company. Mr. Graham indicated that the station under consideration was a prestige type station with a present audience of approximately 800,000. He stated that future growth of earnings was necessarily related to population growth in the area of the station. A discussion followed concerning future management of the station, earnings and possible benefits of the station to the ITT System. Mr. Graham indicated that it would be advisable to consider the eventual acquisition of a total of five TV stations. A discussion was held concerning the nature and growth rate of the TV station business. The question of current prices of TV stations was also reviewed, particularly in relation to present and future earnings.

EXCERPT—MEETING NOVEMBER 13, 1963

He also reviewed the current negotiations with Telmex in Mexico concerning a substantial telecommunications project

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which could be of considerable benefit to our French manufacturing companies. The President summarized a project by the French Government to make substantial loans to Turkey for the purchase of telecommunications equipment and the possible benefits of this to our French companies.

EXCERPT—MEETING DECEMBER 11, 1963

He indicated that in Argentina ENTEL is gradually incurring increased obligations to our manufacturing company, and that measures will have to be taken to close the factory in the event the Government fails to bring its payments up to date.

[1534] (EXCERPT—MEETING OF 1/8/64)

The current situation in Chile was reviewed by Mr. Westfall who advised that the rate increase sought by the company had been deferred at the request of the Chilean President. He indicated that the company would seek a special increase based upon currency devaluation.

(FURTHER EXCERPT—MEETING OF 1/8/64)

Mr. Westfall mentioned that the company had recently received a request by the Government of the State of Rio Grande, Brazil to negotiate a formal settlement of the telephone company expropriation.

The President advised the Board of progress being made on the Indian Telecommunications Project and of the letter which was being forwarded by the World Bank to the Indian Government which should serve to clarify the financing issue.

(EXCERPT—MEETING OF 2/12/64)

Recent developments in connection with the Japanese tax case were reviewed by Mr. Brittenham who indicated that the U.S. Treasury Department was waiting for a reply from the Japanese Finance Minister concerning further negotiations.

A review of the current situation in Chile, Peru, Brazil and Argentina was presented by Mr. Westfall. He indicated that in Argentina the President of Entel had protested the refusal by ITT to extend the Entel [1535] notes in the amount of $6½

million. A discussion was held concerning the Brazilian swaps which had been entered into at the time of the Rio Grande do Sul expropriation settlement.

(EXCERPT—MEETING OF 3/11/64)

The proposed acquisition by General Telephone of Western Utilities Corporation and three of Western's affiliates on the West Coast were reviewed by the President who indicated that these acquisitions by General Telephone of independent telephone companies could have serious adverse effects on the sales of Kellogg in the independent telephone market. He stated that the company was examining its legal position to determine the steps to be taken to protect the position of Kellogg in this market. He also advised the Board that the Company was considering the purchase of shares of certain independent telephone companies at the market price thus permitting the company to establish an equity position in these companies without paying a high premium for the shares. He reported that United Utilities, Inc. was planning an issue of rights which would give the right to purchase approximately 500,000 shares of United stock, and that the company was considering the acquisition of some 200,000 to 300,000 shares of United stock in this manner. He also advised the Board the company was planning to acquire a block of shares of a southern telephone company at the market price, and that if successful in acquiring the United shares or the shares of other telephone companies, these shareholdings would be put into a [1536] newly created holding company. The Board indicated its accord to proceeding with these plans for acquisition of telephone company shares.

The President stated that the Company was proceeding to sell approximately $12 million of Entel notes at an 11% discount through a consortium of U.S. and Dutch bankers.

The President advised the Board that word had been received from India advising that the Indian government would negotiate with ITT on the major Indian telecommunications project. The other two principal bidders having received notification of termination of negotiations, this was considered a very favorable sign that ITT would obtain the contract.

(EXCERPT—MEETING OF 4/8/64)

The President advised the Board that the company continued to pursue the issue of General Telephone's recently announced acquisitions with the Department of Justice and that the Department was now making a study of the problems raised by this proposed merger.

(EXCERPT—MEETING OF 6/10/64)

He also commented on developments in Argentina and advised the Board that the ENTEL notes had been sold in their entirety.

(EXCERPT—MEETING OF 7/8/64)

Developments in the Japanese tax case were referred to by the President who reported that Mr. Robert Knight, the representative of Secretary Dillon, had returned from Tokyo following his discussions. The best proposal which he had obtained from the Japanese Govern- [1537] mental authorities was a waiver of the interest and penalties which would reduce the total amount of the assessment from approximately $7,000,000 to $4,500,000. Mr. Knight intended to report fully to Secretary Dillon on the outcome of the negotiations. The President indicated that he planned to see Secretary Dillon and attempt to obtain additional support from the Treasury Department. The President proposed that the Corporation borrow sufficient funds in Japan to pay the tax and then proceed to pay the loan with proceeds from the sale of NEC and SEI shares. He indicated that projected financing needs of NEC would require ISEC to invest an additional $2,500,000 in 1965 in NEC in order to maintain its equity position, and advised that he was reluctant to invest this additional amount in the shares of NEC in addition to paying the Japanese assessment.

* * * * *

Mr. Westfall commented on progress being made with cable concession negotiations in Peru and advised that a Special Board had been created by the President to negotiate a cable concession. He reported that in Chile progress was also being

made on cable concessions negotiations, although there was considerable opposition. Negotiations had been initiated on the same subject in Brazil and Argentina.

(EXCERPT—MEETING OF 9/9/64)

Mr. Westfall referred to recent developments in Argentina, Chile and Peru in connection with the efforts being made to obtain cable [1538] concessions. He advised the Board that in Peru the Company was also endeavoring to obtain revaluation of the Company's properties. In connection with Puerto Rico he stated that an appeal had been made to the upper court from the Public Service Commission's decision in the rate case.

(EXCERPT—SPECIAL MEETING OF 9/29/64)

Mr. Westfall reviewed developments in connection with the proposed AID guarantees for Chile and advised the Board that the State Department was deferring action on the guarantees pending receipt of a letter from the Chilean government indicating support of the Company's projected development in Chile.

(EXCERPT—MEETING OF 12/9/64)

Current negotiations in Chile between corporate officials and the representatives of the new Chilean Government were referred to by Mr. Westfall, who indicated to the Board that these discussions relating to the future of the Chile Telephone Company, were proceeding in a satisfactory manner. He also indicated that it appeared to be the desire of the Chilean Government to make further investments in the telephone company, which would limit the amount of investment funds required from the patent company in the future.

(EXCERPT—MEETING OF 1/13/65)

Mr. Hart Perry described various proposals which were being considered for financing the Spanish National Telephone Company which would permit increased purchases of system equipment. He indicated there was a possibility of using ITT

Credit Corporation for such purposes, and that parent company assistance might be required.

[1539] * * * * *

The status of negotiations between Perutelco and the members of Junta in Peru was described by Mr. Westfall. He advised that the Peruvian Ambassador had requested ITT to send negotiators to Peru to review outstanding problems. Developments in Argentina and Chile were also referred to by Mr. Westfall. who indicated that the Company was close to reaching an agreement with Chile concerning Chiltelco and outlined in general terms the proposed agreement.

(EXCERPT—FEBRUARY 10, 1965)

The Chairman gave a review of the current cash position of the Corporation and of earnings for 1964 as well as projected earnings for 1965. He mentioned proposed plans for financing the Spanish National Telephone Company which would permit increased purchases of telephone equipment from system houses. Mr. Perry gave certain details of this proposed financing which would approximate $33,000,000 and which would be made principally through ITT Credit Corporation. He indicated that this might require an advance by the parent company to ITT Credit.

The Chairman referred to a proposed loan to the German Bundespost by SEL in an amount of approximately $14 million for which SEL would receive German Bundespost obligations which could be sold after a period of one year. The basic purpose of the loan was to assist the Bundespost in financing an increased telephone expansion program. The Norwegian government owned telephone company was also seeking a loan for comparable purposes from our local company.

[1540] EXCERPT—MEETING OF FEBRUARY 10, 1965

* * * * *

Mr. Westfall commented on the attempts of the manufacturing subsidiaries in South America to diversify into various product lines. He stated that the Company was considering an expansion of the manufacture of telephone equipment in Chile

and Peru provided that current problems with the local governments could be resolved.

* * * * *

Mr. Westfall gave a summary of the negotiations in Chile concerning the future status of Chiltelco and described in detail the tentative agreement which had been reached with the Chilean government. Following a discussion the Board indicated its approval of the Memorandum of Agreement.

(EXCERPT—MEETING OF 3/10/65)

Developments with regard to the Press Wireless acquisition were reported by the Chairman who advised the Board that the Justice Department had forwarded a letter to the FCC which indicated there was no insurmountable antitrust obstacle to the acquisition, and that the FCC has requested comments thereon from interested parties.

* * * * *

Mr. Pierson commented on the recent negotiations in Peru and described the proposal received from the Junta which was considered to be unacceptable but to which a response would nevertheless be made for the purpose of keeping the negotiations open.

* * * * *

Mr. Westfall who indicated to the Board that the Corporation used approximately 60,000 tons of copper yearly. He described a joint venture which was being considered with Geophysical Engineering and Surveys Ltd. of Toronto, for a three year exploration program in Chile, [1541] which would require AID guarantees and certain tax assurances from the government of Chile.

(EXCERPT—MEETING REGULAR—ANNUAL 5/12/65)

Mr. Westfall reviewed developments in Latin America, particularly as to the status of the expropriation action in Rio Grande do Sul and negotiations relative to the sale of the assets of CTN in Parana, Brazil.

(EXCERPT—MEETING OF 6/9/65)

Mr. Westfall reviewed developments in Latin America, stating that the Government of Chile has issued its approval of AID investment guarantees as required by the U.S.-Chilean Bilateral Agreement. Mr. Westfall also reported on developments in Peru and the progress of the $5 million financing of equipment purchases by Entel in Argentina, and reviewed the status of the rate case in Puerto Rico.

(EXCERPT—MEETING OF 7/14/65)

Mr. Westfall reported on developments in Chile, Brazil, Puerto Rico, Mexico and particularly in Peru where an agreement in principle has been reached which could result in a 50% rate increase by December 1, 1965. He also reported on the progress of the $5 million financing for Entel in Argentina.

The Chairman indicated that the Corporation is pursuing measures of relief for System companies expropriated by Cuba.

(EXCERPT—MEETING OF 8/11/65)

The Chairman reported on developments in Spain and stated that the Spanish Government had approved the increase of ITT System ownership in Marconi Espanola S.A.

[1542] (EXCERPT—MEETING OF 9/8/65)

Mr. Westfall reported on the Memorandum Agreement between Chiltelco and the Government of Chile. He stated that approval of the telephone rate increase for Perutelco by the Government of Peru is expected shortly and will be retroactive to September 1, 1965. He also reported on developments with respect to the CTN (Parana) telephone rate application.

(EXCERPT—MEETING OF 10/13/65)

Mr. Westfall reported on the status of the AID guarantees for the System investment in Chiltelco, as well as on a proposed joint venture with a Canadian company to undertake copper explorations in Chile. He stated that the President of Peru has approved the telephone rate increases for Perutelco; however, such rates have not yet become effective.

The Chairman indicated that the Corporation is still pursuing measures of relief for System companies expropriated by the Cuban Government.

(EXCERPT—MEETING OF 11/10/65)

A report was given by the Chairman on the status of the claim for war damage filed on behalf of the Corporation with the Foreign Claims Settlement Commission with respect to damage sustained by subsidiaries, principally those in Germany, Hungary and China.

* * * * *

Mr. Westfall reported on developments in the Chiltelco expansion program and the CTN telephone expansion program in Curitiba, Brazil, as well as the Perutelco telephone rate increase.

[1543] * * * * *

The Chairman reported that the Corporation's wholly owned subsidiary, Federal Electric Corporation, had undertaken a program involving term loan arrangements with CATV operating companies which would include warrants to acquire at a nominal cost up to 80% of the equity of such companies and would provide for implementation and installation services by FEC. The Chairman advised that authority has been granted FEC to invest $10 million in such program, of which $2,500,000 is presently committed. The Board was in accord.

[1544] EXCERPT—MEETING 12/8/65

Mr. Westfall reviewed developments in Latin America including the status of the Perutelco telephone rate increase. He also reported that an interim expansion program and agreement are being worked out in Chile until legislation has been enacted setting forth the long-term relationships between Chile and the Corporation.

[1545] EXCERPT—MEETING JANUARY 12, 1966

The Chairman reported that the ITT System joint venture to manufacture and distribute dry cell batteries in Iran has been submitted for review by the Iranian Cabinet.

Mr. Westfall reviewed developments in Latin America including the status of the Peru telephone company rate increase. He also reported that a new convenio is being negotiated in Chile, setting forth the long-term relationship between the Government of Chile and the Corporation.

EXCERPT—MEETING FEBRUARY 9, 1966

The Chairman reported on the status of the Corporation's application with the FCC to construct, own and operate a satellite earth station in Puerto Rico.

EXCERPT—MEETING MARCH 9, 1966

Mr. Westfall reported with respect to developments in the Perutelco negotiations covering a new contract on rate and telephone operating conditions. He stated that the proposed concession agreement was not satisfactory to the Corporation and also reported with respect to the steps being taken to obtain a mutually satisfactory agreement.

Mr. Westfall stated that the trial court recently issued a decision with respect to the valuation of the Company in the matter of the expropriation of the telephone operating subsidiary of the Corporation in Rio Grande do Sul, Brazil, which is being appealed.

EXCERPT—MEETING APRIL 13, 1966

Mr. Westfall reported with respect to developments in the Perutelco negotiations covering a new contract on rate and telephone operating conditions. [1546] He also reported on the status of the joint venture undertaking copper explorations in Chile.

Mr. Westfall reported on the status of the new convenio being negotiated in Chile, setting forth the long-term relationship between the Government of Chile and the Corporation. He stated that an appeal had been filed and negotiations are being conducted with the Brazilian Government with respect to the expropriation of the telephone operating subsidiary of the Corporation in Rio Grande do Sul, Brazil.

A report on the status of the Corporation's application to the FCC to construct, own and operate a satellite earth station in Puerto Rico was made by the Chairman.

EXCERPT—MEETING JULY 13, 1966

The Chairman stated that it was proposed to construct a 92-unit one-story motel near Tunis, requiring a total investment of $912,000 of which the ITT System investment would be $273,000, representing a 75% equity interest, the balance of the equity to be supplied by the Tunisian PTT. An application would also be made for Cooley Fund Loans to finance capital expenditures. The Board concurred.

Mr. Westfall reported on developments in Latin America, particularly with respect to the proposed termination of the Corporation's rights to operate the CTN-Parana long-distance telephone concession and the local concession for telephone operations in the city of Curitiba.

Mr. Westfall also reported on developments in Puerto Rico and on the status of the new convenio being negotiated in Chile, setting forth the long-term relationship between the Corporation and the Government of Chile, as well as [1547] developments in the Perutelco negotiations with respect to a new contract on rate and telephone operating conditions.

EXCERPT—MEETING AUGUST 10, 1966

Mr. Perry reported . . . the participation of SEL in the proposed financing by the German Bundespost.

The Chairman reported on the status of the proposed merger with ABC.

Mr. Westfall reported on the status of the Perutelco negotiations relative to a new contract setting forth rates and telephone operating conditions. He also reported on the new convenio being negotiated in Chile, as well as on developments in Brazil and Puerto Rico.

EXCERPT—MEETING SEPTEMBER 14, 1966

Mr. Perry reported . . . the status of the proposed financing by the Bundespost in which SEL may participate.

Mr. Westfall reported on the status of the Perutelco negotiations relative to a new contract setting forth rates and telephone operating conditions. He also reported on a new convenio being negotiated in Chile as well as on developments in Brazil and Puerto Rico.

EXCERPT—MEETING OCTOBER 12, 1966

Mr. Perry reported on the financing by the German Bundespost in which Standard Elektrik Lorenz is participating and expanded further on the proposed offer of convertible debentures of ISEC to minority stockholders of SEL.

Mr. Westfall reported on the status of the new convenio being negotiated in Chile and on the status of the Perutelco negotiations relative to a new contract setting forth rates and operating conditions, as well as on developments in Brazil and Puerto Rico.

[1548] EXCERPT—MEETING NOVEMBER 9, 1966

Mr. Perry recommended to the Board that the additional $16 million in medium-term credits to be extended to CTNE by SESA–Madrid be approved in view of the good credit standing of CTNE. In addition, he stated that it was considered advisable to proceed without obtaining a Spanish Government guarantee of the transaction. The Board was in accord.

EXCERPT—MEETING DECEMBER 14, 1966

The status of the proposed merger with ABC was reviewed by the Chairman who reported that the FCC is still awaiting Justice Department approval.

EXCERPT—MEETING JANUARY 11, 1967

The Chairman presented a summary of current and prospective earnings and referred to discussions being carried on with the SEC as to the method of reporting earnings per share after the issuance by the Corporation of shares of its Cumulative Convertible Preference Stock (Participating).

Mr. Westfall reported on the convenio being negotiated in Chile and on the status of the Perutelco negotiations for a new

contract setting forth rates and operating conditions, as well as developments in Brazil and Argentina.

EXCERPT—MEETING FEBRUARY 8, 1967

The Chairman reported on the status of discussions being carried on with the SEC as to the method of reporting earnings per share after issuance by the Corporation of shares of its Cumulative Convertible Preference Stock (Participating).

The Chairman reported as to the convenio being negotiated in Chile and on the status of the Perutelco negotiations for a new contract setting forth rates and operating conditions, as well as on developments in Brazil and Argentina.

[1549] EXCERPT—MEETING FEBRUARY 8, 1967

The Chairman stated that it was deemed advisable to dispose of the stock and assets of Companhia Telefonica Nacional [1550] (CTN), a telephone operating subsidiary of International Telephone and Telegraph Corporation, Sud America (ITTSA) with its assets located in the States of Parana and Rio Grande do Sul in Brazil, and for that purpose two Agreements have been negotiated by ITTSA with the proposed purchasers, Companhia De Telecomunicacoes do Parana (Telepar) and the State of Rio Grande do Sul (RGS). He reviewed the terms of the proposed Agreements and their status pointing out that the expected aggregate consideration to be received thereunder was in excess of eleven million dollars and that the Agreements would terminate the litigation involved in the expropriation of CTN's assets in Rio Grande do Sul and the litigation on CTN's operating rights in Parana. The Chairman then recommended that the Board of Directors authorize the signing of appropriate Agreements in respect of these matters.

Thereupon, on motion duly made and seconded, it was

> RESOLVED, that the acts of Gerhard R. Andlinger, a Vice President of this Corporation, in executing and delivering in the name and on behalf of this Corporation in its own capacity and as representative of International Telephone and Telegraph Corporation, Sud

America, Agreements proposed to be entered into with the Government of the United States of Brazil, the State of Parana, Brazil, the State of Rio Grande do Sul, Brazil, Companhia De Telecomunicacoes do Parana, Banco Do Brasil S.A., Companhia Rio Grandense De Telecomunicacoes, Companhia Telefonica Nacional, each a Brazilian corporation, for the disposition of the stock and assets of Companhia Telefonica Nacional be, and the same hereby are in all respects ratified and confirmed; and

RESOLVED, that the Chairman and President or any Vice President of the Corporation be, and each of them hereby is, [1551] authorized to execute and deliver in the name and on behalf of this Corporation in its own capacity and as representative of International Telephone and Telegraph Corporation, Sud America, such further Agreements with the Government of the United States of Brazil, the State of Parana, Brazil, the State of Rio Grande do Sul, Brazil, Companhia De Telecomunicacoes do Parana, Banco Do Brasil S.A., Companhia Rio Grandense De Telecomunicacoes, Companhia Telefonica Nacional, each a Brazilian corporation, or any of them, or such other party or parties as the officer executing the same may deem necessary or advisable for the disposition of the stock and assets of Companhia Telefonica Nacional; and

RESOLVED, that the Chairman and President or any Vice President of the Corporation be, and each of them hereby is, authorized in the name and on behalf of the Corporation in its own capacity and as representative of International Telephone and Telegraph Corporation, Sud America, to take all such steps and to execute and deliver all such documents, including share certificates in Companhia Telefonica Nacional, as are necessary or advisable for the carrying out of the transactions pursuant to such Agreements for the disposition of the stock and assets of Companhia Telefonica Nacional.

[1552] EXCERPT—MEETING MARCH 8, 1967

Mr. Westfall reported on the status of the Perutelco negotiations for a new contract setting forth rates and operating conditions on the status of the convenio being negotiated in Chile as well as on developments in Brazil and Argentina.

[1553] EXECUTIVE COMMITTEE

EXCERPT—MEETING JANUARY 9, 1963

The President then described the settlement that had been reached with the assistance of the Brazilian Government and the Banco do Brazil on account of the seizure of the telephone operating properties of the ITT System in the State of Rio Grande do Sul. He said that, in summary, the settlement provided for new borrowings from the Banco do Brazil of the equivalent of slightly less than $7,300,000, such borrowings to be in local currency, to be repayable as to principal only when final compensation for the seized properties has been received (presumably as a result of judicial proceedings) and such borrowings to be obligations in part of the principal telephone operating subsidiary in Brazil and in part of the manufacturing subsidiary in Brazil. The settlement further provided that $7,300,000 in U.S. dollars be remitted to New York by the Brazilian subsidiaries of ITT of which $3,650,000 could be retained in New York and $3,650,000 had been advanced to the manufacturing subsidiary in Brazil and registered as a dollar loan. Finally, the settlement also provided for the closing out by December 1964 of existing swap deposits aggregating $6,500,000 which would result in the receipt of additional U.S. dollars in New York.

EXCERPT—MEETING FEBRUARY 13, 1963

The President described the present status of discussions with respect to the possible acquisition of United Utilities Incorporated. He said that representatives of ITT were meeting in Washington with representatives of the Department of Justice in regard to this possible acquisition.

[1554] The president then advised the Committee that ITT had recently received a very large tax claim from the Japanese Government which purported to be based on the sale by ITT of rights and stock of Nippon Electric Company. He said that he was advised by counsel that they believed that there was no proper basis or jurisdiction for such an assessment but that the matter was being further investigated.

EXCERPT—MEETING MARCH 13, 1963

The President then reported as to developments with respect to the possible acquisition of United Utilities Incorporated and stated that some word as to the attitude of the Department of Justice could be expected shortly.

The President then reviewed recent developments with respect to the investments and position of ITT and its subsidiaries in Brazil, Chile, Argentina, Peru and Puerto Rico. In the course of this review he pointed out that the authorities in Brazil had failed to carry out one of the undertakings which they had entered into in connection with the settlement on account of the seizure of the telephone operating properties of the ITT System in the State of Rio Grande do Sul. He added that ITT was protesting vigorously and would follow up the matter in Washington.

EXCERPT—MEETING APRIL 10, 1963

Turning to Japan, Mr. Geneen told the meeting that the Japanese Government had proposed a trial of its tax claim against the Corporation. He said that the issue turned on the United States' tax treaty with Japan and that he had scheduled a meeting with the Under Secretary of the Treasury to discuss the matter.

[1555] The President requested Mr. Ted B. Westfall to join the meeting and, following the President's outline of the situation in Chile, Mr. Westfall discussed his meetings with Chilean Government representatives. Mr. Westfall expressed the opinion that some accommodation would have to be made and reviewed various solutions to recoup the Corporation's investment and the problems connected therewith. After discussion it was the consensus of the meeting that if the situation

was to continue difficult in Chile every effort should be made to effect a disposition of the Corporation's entire investment in exchange for a security which would be backed by Chilean Government guarantees of repayment of such investment on terms providing a reasonable return on the unliquidated portion of the investment.

EXCERPT—MEETING MAY 8, 1963

He also referred to certain problems in Italy, particularly those resulting from the position of government corporations which had interests in private industrial enterprises.

EXCERPT—MEETING APRIL 8, 1964

He also pointed out that approximately $10,000,000 of the notes of the Government owned Argentine telephone company had recently been sold at some discount, realizing close to $10,000,000 in cash for the System.

[Pages 178–207 omitted]

278-719—67——12

[Federal Communications Commission Exhibit No. 25; presented by Broadcast Bureau]

[4396] INTERNATIONAL TELEPHONE
AND TELEGRAPH CORPORATION,
INTERNATIONAL HEADQUARTERS,
May 17, 1966.

To: Messrs. H. S. Geneen and H. Perry.
From: Robert H. Kenmore.
Subject: Nielsen Ratings.

Attached are the Nielsen ratings (both National and 30-Market) for the current season to date. The big jump in ABC for the week ending April 24 was due to the Academy Awards broadcast. Apart from that there is not too much of significance to report as we are coming into the period when sets in use are going down and the "ratings race" is pretty much over for the season.

I am attaching a copy of a tabulation that Nielsen did on comparing the ratings performance for the networks for this season versus last season. It naturally shows that ABC did not stack up as well this year as in the previous year. However, taking the 30-market ratings for the January–April portion of each season only (i.e. categorized this year by ABC as their Second Season) the comparison is much more favorable to ABC. The only thing this indicates to me is that prompt and imaginative action on the programming front can yield results in this business, which is a heartening thought versus the sometime expressed view that a network is a slave to the ratings performance of its existing shows once a season has started.

Softness in television buying does not seem to have affected network billings in the first two months of this year, as indicated by the attached clip.

[Federal Communications Commission Exhibit No. 26; presented by Broadcast Bureau]

[4397] INTERNATIONAL TELEPHONE AND TELEGRAPH CORPORATION,
INTERNATIONAL HEADQUARTERS,
January 26, 1966.

To: Mr. H. S. Geneen/Mr. H. Perry.
From: Robert H. Kenmore.
Subject: Nielsen Ratings.

The 30-market Nielsen's are out for the week ending January 16 (Week 18), which was the premier week of ABC's Second Season.

Predictably ABC came in first with a 20.0 rating, with CBS at 19.2 and NBC at 18.3.

Preliminary analysis would indicate that ABC's strength resulted primarily from higher sets in use rather than stealing viewers away from the other 2 networks.

As far as individual shows were concerned Batman II (Thursday night) was the top rated show of the week. Batman I was second, Henry Phyfe was sixth, and Blue Light tied for twelfth with Daktari (a new CBS show).

It will take a couple of more Neilsen books to determine the staying power of the new shows, but on balance there is no question that the Second Season has been a successful venture for ABC. While only the Batman will probably continue in the "hit" category this is really the critical show because of its twice a week booking and important 7:30 p.m. time slot as a lead-in to the rest of the night. Furthermore all of the shows that were cancelled to make room for the new ones had such a low rating that even if the other shows managed to hold on to an "average" rating, ABC will show a net improvement on balance.

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[5509] EXHIBIT No. I-3

AMERICAN BROADCASTING COMPANIES, INC.,
New York, N.Y., March 18, 1966.

MR. HAROLD S. GENEEN,
Chairman and President,
International Telephone and Telegraph Corporation,
New York, New York.

DEAR HAROLD: As you know, one of the joint objectives of ITT and ABC in working out our merger agreement was to establish arrangements which would enable ABC to operate as a substantially autonomous unit, with the same management, operating personnel and policies continued in effect. At the same time, it was also our mutual desire to provide the means by which the parent company would be in a position to discharge the over-all responsibility that is expected by the Federal Communications Commission. The basic understandings that we reached to accomplish these two objectives—subsidiary automomy and parent company overseeing—are set forth in Article VI and Article X, Sections 4.6(h) and (i) of the merger agreement; the agreement also provides that representations will be made to the FCC that the arrangements agreed upon will be carried out in practice.

As a result of the many meetings and discussions among ITT and ABC executives during the period preceding the approval of [5510] the merger agreement by our respective Boards, as well as a result of the studies of ABC made by you and other ITT representatives before deciding on merging with ABC, I am sure that you are already acquainted with the policies followed in the operation of our networks and owned stations. The FCC will require that we show that these policies, and the means by which they will be implemented, have been reviewed by ITT and approved. It is for this reason that I am writing you this letter and enclosing the several attachments to which I will later refer. The letter and the attachments will be made part of the FCC applications which, as you know, have been in preparation for many weeks.

Before coming to a description of the attachments, I believe it would be useful to summarize briefly the organizational arrangements and other understandings set forth in the merger

agreement which have been agreed upon to provide for autonomy and continuity of the ABC operations and at the same time to insure that proper attention will be given to ABC operations by the parent company:

(a) It is planned that the present ABC officers, executives and employees will be continued, except for normal replacements or retirements. Five-year employment contracts, effective as of the date of the consummation of the merger, have been agreed upon with the five key ABC executives who are ABC Board members—ABC's President, Executive Vice President, President of the Television Network Department, Vice President and General Counsel, and Vice President in charge of Theatre Operations.

[5511] (b) The ABC Board, which now consists of 14 members, five of whom are key ABC employees, will be continued, with provision made to add two directors who are members of the ITT Board. It is contemplated that both the two new directors will be key ITT executives, located at ITT's company headquarters in New York City.

(c) The ABC Executive Committee, which now consists of seven members, two of whom are key ABC executives, will be expanded by adding the two new ABC directors to be designated by ITT.

(d) The ITT Board, which now consists of 16 members, five of whom are key ITT employees, will be increased by four and the vacancies to be created will be filled by ABC's President and Executive Vice President, plus two other ABC directors designated by ABC and approved by ITT who shall not be employees of ABC. The composition of the ITT Board will not be affected in any other way by the terms of the merger agreement.

(e) The ITT Executive Committee, which now consists of 10 members, one of whom is a key ITT employee, will be expanded by three members, one of whom will be ABC's President and the other two of whom will be ABC directors designated by ABC and approved by ITT who are not employees of ABC. The composition of the ITT Executive Committee will not be affected in any other way by the terms of the merger agreement.

(f) Under the above described arrangements and assuming [5512] that the directors now in office continue: (i) there will be six ABC Board members serving on the ITT Board and four ABC Board members serving on the ITT Executive Committee; (ii) seven of the ABC Board members and four of the ABC Executive Committee will be fulltime executives of ABC or ITT; and (iii) seven of the ITT Board members and two of the ITT Executive Committee will be either fulltime ITT or ABC executives. These cross Board and cross Executive Committees membership and relationships, plus the fact that the two companies will be headquartered in the same city, will provide effective liaison between parent and subsidiary and will enable ITT officers and Board members to familiarize themselves with the problems of broadcasting and the responsibilities of broadcast licensees.

(g) In order to preserve the management, operating personnel and policies of ABC and to provide for an orderly transition looking toward possible changes in composition of the ABC Board and Executive Committee in the future, the individual members of the ABC Board and Executive Committee, as initially constituted after the merger, will be maintained in office for a minimum of three years, with only such changes as are required because of refusal or inability to serve, and if such changes are necessary, the replacement Directors and Executive Committee members will, during such three year period (except for the two ITT designees), be designated by the remaining members of the ABC Board with the approval of ITT. It is also contemplated that [5513] the above-described ABC membership on the ITT Board and Executive Committee will be maintained for a period of not less than three years. These provisions will be binding unless there has been a material deterioration in the business or financial position of ABC and its subsidiaries taken as a whole in relation to the broadcasting and theatre industries which adversely affects the interests of ITT as a stockholder. During such three years, matters of major importance in the ABC subsidiary are also to be submitted to the ITT Board of Directors for approval before becoming effective.

(h) At the end of the three year transition period, the requirements as to Board and Executive Committee membership will no longer be covered by the contractual terms, nevertheless the parties contemplate that the projected relationship between parent and subsidiary will be retained so as to continue ABC as a separate and substantially autonomous subsidiary, with liaison between parent and subsidiary undiminished.

(i) Of course, in addition to the formal meetings of the ITT and ABC Boards and Executive Committees, I am sure that we and other of our executives will be in very frequent communication and consultation even though the day-to-day operations of ITT and ABC will be completely independent of each other.

I believe that the above outline of the proposed relationship between the two companies more than meets FCC requirements. It will also preserve the understanding of continued [5514] autonomy plus close liaison between parent and subsidiary.

I come now to brief descriptions of the attachments to this letter:

Attachment A—ABC's organization charts. You will note that the charts show that the ABC Broadcasting Division is operated as a separate division of the company. The operating heads of the Television and Radio Networks and of the owned television and radio stations have no day-to-day responsibilities for the operation of the theatres or other ABC activities. The separateness of the broadcasting division from other ABC company activities will be continued.

Attachment B—ABC policy book. This contains the operating and programing policies that are followed by the ABC networks and owned stations. One of the policies is compliance with the NAB Television and Radio Codes.

Attachment C—Programing policy of the ABC Television Network and its organizational functioning.

Attachment D—Programing policy of the ABC Radio Network and its organizational functioning.

Attachment E—Programing policy of ABC News and its organizational functioning.

Attachment F—Description of the owned television stations, including: (i) a description of each station, its facilities and staff, organization chart, the market in which it operates and its programing policy; (ii) a description of [5515] methods used to ascertain the needs and interests of the public served by the stations and the significant needs and interests which each station will continue to serve, and (iii) a description of how the home office of the owned television stations operates, including its personnel and services.

Attachment G—Information similar to that in F on the owned radio stations.

There is another exhibit, still in the process of preparation, which will be delivered to you at an early date and will be identified as Attachment H to this letter. It will set forth the history of ABC beginning with its inception on January 1, 1927 when NBC established the Blue Network in order to provide listeners with another choice of program fare than that offered by its Red Network; the establishment in 1943 of the Blue Network as a completely independent operation as a result of an FCC requirement which forced NBC to divest itself of one of the two networks, and its acquisition by Mr. Edward J. Noble; the progress made by the Blue Network, under Mr. Noble's direction (with name changed to the ABC Radio Network) during the period 1943 to 1952, and the inception of the ABC Television Network; the merger of ABC and UPT in 1953 and the improvements that have been made in the ensuing 13 year period; the reasons why we believe that the merger of ABC and ITT will be in the public interest; and the reasons why we believe that the FCC should approve the merger without a hearing.

[5516] As you know, the heads of the Radio and Television Networks and the managers of the owned radio and television stations will hold meetings at the NAB Convention in Chicago on Saturday, March 26 and Sunday, March 27, at which time they will make presentations on their accomplishments during the past year and their anticipations for the forthcoming year. I understand that you and Hart Perry, in response to our invitation, plan to attend these meetings. I am sure that you will

find them interesting and that they will add to your information on the operations and programing of the networks and the stations.

With kindest personal regards,

Sincerely,

LEONARD H. GOLDENSON.

[5517] INTERNATIONAL TELEPHONE AND TELEGRAPH CORPORATION,
New York, N.Y., March 28, 1966.

Mr. LEONARD H. GOLDENSON,
Chairman and President,
American Broadcasting Companies, Inc.,
New York, N.Y.

DEAR LEONARD: I am pleased to acknowledge receipt of your letter of March 18, 1966 and its Attachments, including Attachment H which was subsequently delivered. We have carefully examined the letter and the Attachments and wish to express our congratulations to you and your company executives for what we believe to be an extremely well organized company.

As you know, Mr. Perry and I attended the ABC meetings at the NAB convention over the past weekend and we also found them both instructive and well done.

We at ITT concur in all respects in the continuation of the ABC policies and in the operational procedures described in your letter and Attachments. We also agree that the relationships between ITT and its ABC subsidiary will be as you have described them in your letter.

As is the case with ITT and its other subsidiaries, it will be our purpose to see that ABC operates with the highest standards of public service and we look to you and your management to maintain the high standards of public service for which ABC under your management has been well known and which you have so capably done in the past. The broadcasting operations of ABC will be kept separate from other ITT operations and the obligations of ABC as a licensee will be performed unaffected by commercial or other similar interests of ITT.

We share the view expressed in Attachment H that in the years ahead major financial commitments will be required by ABC to pursue a position of leadership in the broadcasting industry. [5518] You can be assured that I will do my best to see that the financial resources of ITT, subject of course to approval in specific instances by the ITT Board of Directors, are made available to ABC if needed.

I understand that you plan to file this exchange of letters and the Attachments with the FCC as part of the applications, and wish to advise you that our Board will be informed of the contents.

Kindest personal regards.

Sincerely,

H. S. GENEEN.

* * * * *

[Attachment E to Goldenson Letter]

[5761] ABC NEWS

ABC News is a separate division of the American Broadcasting Company consisting of two main departments—television and radio. Each department operates separately in its particular area of competence. Accordingly, the radio and television departments have separate production facilities and separate producers who are responsible for preparing programs designed for the respective media. The correspondents and business facilities of the division, however, service both departments. In an age of television ascendancy, the Radio News Department is thereby assured of equal attention.

To serve more people more often, ABC has aggressively expanded its news and public affairs operation. Continued growth in this area will remain the objective so long as the news and public affairs program losses can be contained at levels which are reasonable in relation to other operations of the network.

It has always been ABC policy to delegate to operating managements the maximum authority commensurate with overall Company interests. Each of the networks and each of the owned stations has been permitted to conduct its business as a separate entity. There have always been, however, certain overall Company policies within which each operating head is

required to function. This same policy applies in general to the News and Public Affairs areas, with certain exceptions required due to the immediacy of news and certain public affairs programs which are important for the general public welfare.

[5762] As to the content of ABC News programs, the overriding policy is to inform the American people on a nonpartisan and objective basis. ABC News does not have any editorial position. It does present commentaries covering various shades of opposing opinion. Its news judgment is guided by the classic journalistic concepts of objectivity as well as those governmental regulations requiring broadcasters to present fair and balanced news coverage.

Showmanship in ABC news programs is secondary to truth, authority and responsibility. News values are not falsified either by overly dramatic presentation or flamboyant voicing of news items by announcers or newscasters.

There is no censorship of news and the only limitations imposed by the news editors are those of good taste, avoidance of obscene and profane language, avoidance of defamation, compliance with government regulations during times of emergency, and competent news authority.

The three main categories of ABC News programs are hard news, documentaries, religious and educational programs. In the area of hard news, there are the daily radio and television news strip programs which cover the main events of the day, as well as continuing stories of prime public interest, such as space exploration and the Vietnam War. Special events of an immediate nature are included in the hard news coverage and would include such stories as elections and conventions, the Pope's visit, the [5763] President's assassination, etc. To implement this coverage ABC has created a worldwide news gathering organization which includes news bureaus in 6 cities in the United States and in 8 major foreign capitals and has 22 film crews connected with the major news bureaus in the United States and abroad which are prepared to cover news on the spot as it occurs.

In order to explore the news in depth, various techniques have been used over the years. At the present time the practice is to present a weekly interview program which gives ABC

correspondents the opportunity to explore important issues of the day with personalities who are making the news at the time.

In the area of documentary programming, ABC News has various units which cover a wide range of news and news feature material. One unit is engaged in the in-depth study of various aspects of Western civilization. Other units examine contemporary problems, folkways and subjects of public interest such as gambling, popular music, law enforcement and education. There is also discussion and reporting of matters of social concern such as unwed mothers, refugees, and itinerant farm laborers. The Radio News Department each day presents sound documentaries, features and actualities.

ABC News religious and educational programs likewise cover a wide area of interest. Religious programs are produced in cooperation with the major faiths and present commentaries, dramatizations and discussions regarding moral and religious [5764] topics. The programs specifically geared to the younger viewers explore varying aspects of human knowledge and places of interest at home and abroad.

ABC News, as a separate division of the American Broadcasting Company, is headed by its President, who reports directly to the Executive Vice President of American Broadcasting Company, Inc. The President of ABC News is responsible for the overall operation of the News Division. Heading up the two main departments of the division are the Vice President and Director of Televison News and the Vice President and Director of Radio News. Through these two individuals both departments operate in their respective areas of concern. While each of the ABC Owned stations has its individual Director of News who is responsible to the respective Station Manager, the President of ABC News must approve the appointment of each News Director and must also approve new news broadcasters for each of the owned stations. This insures that uniformly high standards of excellence are maintained in all the Company's News Departments. Once budgetary approval has been received from corporate management, the President of ABC News through the office of the General Manager of ABC News is responsible for the financial control of the News Division.

The responsibility for the selection of news, special events and public affairs programming is that of the President in charge of this department. Review and evaluation of program idea submissions are initially made by the Producers in charge [5765] of Special Events and News and Public Affairs and Documentaries respectively. Program recommendations are then discussed at the News Department staff meetings, and are subject to the approval of the President of the division. The scheduling of the approved programming then becomes the responsibility of the President of the Television Network, in consultation with the President of ABC News, and is subject to the final approval of the Executive Vice President of the Company.

The determination of the scheduling of a news bulletin on the Radio or Television Networks is the responsibility of the President in charge of News and Public Affairs; the responsibility for scheduling a local bulletin is vested in the head of the local News Department. The urgency of the bulletin may require a scheduling which will necessitate a commercial pre-emption. The responsibility for this decision rests with the network or local News Department.

There are instances when a major news event requires the scheduling of certain special programs or pickups. In these instances, it is the responsibility of the News Department to determine what programming it feels is required. When additional broadcast time is needed to present coverage of major, unforeseen news developments, or to launch new news and public affairs programs of whatever nature, there exists a system through which this time is provided. Corporate management has established the procedure whereby a representative of ABC news discusses the [5766] particular request with a representative of the ABC Television Network or the ABC Radio Network, as the case may be. On those occasions when the two divisions do not agree, ABC News may carry its case to the Executive Vice President, whose decision is final.

It is ABC's policy to give consideration to the scheduling of special events of various types in its network schedules. To serve the public and the networks properly, these programs require the broadest possible exposure consistent with sound net-

work and station operations. The networks and Company owned stations make every effort to accommodate such programs when requested to do so by the News Department. However, where the scheduling of special events on the network requires the preemption of commercial programs either on the networks or on owned stations, and the operating heads and the News Department cannot agree on a broadcast time, the News Department makes its recommendations to the Executive Vice President whose responsibility will be to work out the most equitable scheduling possible and whose decision in all such matters is final.

The Organization Chart of ABC News is attached.

* * * * *

[Attachment H to Goldenson Letter]

[5812] ABC—Past, Present and Proposed

The genesis of the ABC radio network dates back to January 1, 1927 when the National Broadcasting Company established the Blue Network in order to provide listeners with another choice of program fare from that offered by its Red Network. The original stations associated with the Blue were WJZ (now WABC), New York; WBZ, Boston; WBZA, Springfield; KDKA, Pittsburgh; KYW, Philadelphia; and WEBH, Chicago. NBC expanded its two networks to the point in 1938 that it had 154 outlets—23 stations constituting the basic Red Network, 24 the basic Blue, with nearly all of the remaining 107 available to either. At that time NBC was transmitting approximately 75% of its commercial programs over the basic Red and 25% over the basic Blue.

The establishment of the Blue Network (ABC), as a completely independent operation, stems from the Commission's Order No. 37 (Docket 5060) issued March 18, 1938 directing an investigation "to determine what special regulations applicable to radio stations engaged in chain or other broadcasting are required in the public interest, convenience, or necessity." As a result of [5813] extensive hearings the Commission concluded in its 1941 *Report on Chain Broadcasting* that it was not in the public interest for a station licensee to affiliate with a network organization owning more than one network, and ac-

cordingly required NBC to divest itself of one of its two networks.

As the first step in effectuating this separation, NBC declared a dividend in kind to RCA, at the close of business in 1941, consisting of the assets then constituting the Blue Network—principally station WJZ, New York; share-time station WENR, Chicago; and station KGO, San Francisco. These assets were then assigned to Blue Network Company, Inc., a Delaware corporation. The new company was staffed largely with former personnel of NBC. Steps were thereupon taken to find a purchaser of the new company.

A. ABC (1943–1952)

In the summer of 1943 Edward J. Noble agreed to purchase Blue Network Company, Inc., for $8,000,000, and assigned his right in the contract of sale to American Broadcasting System, Inc. The requisite Commission approval was granted October 12, 1943. The sale was consummated two days later by American Broadcasting System, Inc. purchasing from RCA all the stock of the Blue [5814] Network Company, Inc.[1] Thus was launched, in furtherance of the Commission's findings in the Chain Broadcasting Hearing, a new and independent network intended to offer more effective competition to NBC and CBS. In its decision and order approving the sale, the Commission said (10 FCC 212, 213):

> The transfer of the Blue Network will result in four independent Nation-wide networks. This will mean a much fuller measure of competition between the networks for stations and between stations for networks than has hitherto been possible. In addition, the transfer should aid in the fuller use of the radio as a mechanism of free speech.

ABC began its struggle to provide a fuller measure of competition with the three older networks, and particularly NBC and CBS, under two serious handicaps: (1) fewer owned and operated stations in "key" markets, and (2) a shortage of clear channel outlets. The new network had only 2-½ radio stations

[1] A year later the latter company was merged into the parent company with the corporate name changed to American Broadcasting Company, Inc.

of its own (WJZ, New York, now WABC; KGO, San Francisco; and WENR, Chicago, now WLS)—in marked contrast with the 7.45 AM stations then licensed to CBS and 6 AM stations then licensed to NBC. The new management of ABC promptly instituted efforts to increase the number of owned and operated stations in key cities. To that end, in 1944 ABC purchased Station KECA (a 5 kw regional station, now KABC) in Los Angeles for $800,000, [5815] and in 1946 it purchased WXYZ (also a 5 kw regional station) in Detroit for $2,800,000, thus providing the network with owned and operated stations in two additional key markets. In 1947 ABC succeeded in increasing KGO's power in San Francisco from 7500 to 50,000 watts at an additional cost of approximately $400,000. Similarly, at a cost of $135,000, WJZ's transmitter site was changed from Bound Brook to Lodi, New Jersey, in order to increase the effectiveness of that station's coverage of the New York area.

In obtaining clear channel skywave affiliates, important for national coverage, ABC was less successful. On this score it suffered a blow at the outset from which it never fully recovered. Four clear channel stations which had formerly carried the programs of the Blue Network chose not to affiliate with the new company (WBZ, Boston; WHAM, Rochester; KDKA, Pittsburgh; and WBAL, Baltimore). This left the new radio network with only two outlets, either owned or affiliated (WJZ, New York and WENR–WLS, Chicago), which were theoretically capable of rendering clear cannel skywave service—in contrast with 6 clears *licensed* to NBC in New York, Washington, Chicago, Cleveland, San Francisco, and Denver, and 7 clears *licensed* to CBS in New York, Washington, St. Louis, Chicago, Minneapolis, Los Angeles and Charlotte. Moreover, with KOB then operating [5816] nondirectionally on WJZ's frequency of 770 kc under an SSA, any skywave service from WJZ was substantially non-existent, and WENR shared 890 kc with WLS, then affiliated with but not owned by ABC. And in the ensuing 9 years, try though it did, ABC was unable to rectify this imbalance in skywave coverage. Between 1943 and 1952 ABC succeeded in adding as affiliates only one additional clear channel station in the east (Buffalo) and three 1–B's in

the far west (Sacramento, Portland and Spokane). Thus, of the 51 clear channel skywave stations in operation at the end of 1951, 23 were associated with the NBC network, 20 with CBS, 6 with ABC, and 2 with Mutual.

Despite its lack of success in obtaining skywave affiliates, ABC added to its coverage by increasing the number of its AM affiliates from the 168 inherited from NBC to a total of 298 by the end of 1951. ABC also turned to FM in its desire to improve its competitive position. Following World War II it added FM facilities to each of its 5 owned and operated stations and encouraged its affiliates to improve their AM coverage and to add FM facilities to their AM operations. Such efforts to overcome its shortage of Class I facilities were only partially sucessful, as shown by the 1951 [5817] gross billings for each of the 4 radio networks:

CBS	$68,784,773
NBC	54,324,017
ABC	33,708,846
MBS	17,900,958

In TV, as in AM, ABC's chief network competitors obtained priority positions before the Blue was established as an independent network in 1943. Both NBC and CBS had experimental television grants dating from 1931 and pre-war commercial grants in addition to a wealth of experimental knowledge. Established during a war-time "freeze", ABC could not immediately acquire new TV stations of its own. However, as early as February 1945, ABC established a Television Division of the Program Department devoted to experimentation and broadcasting of programs designed for or adapted to television, and its broadcast programs on other stations even before ABC had a New York station.

With the lifting of the freeze in November 1945, and notwithstanding its late start, ABC filed for and obtained its full quota of five TV stations in New York, Detroit, Chicago, San Francisco, and Los Angeles. All grants were on Channel 7, in the upper half of the VHF band, a portion of the spectrum concerning which there was then considerable skepticism regarding its suitability for television purposes. Equipment shortages, particularly [5818] for Channels 7 and above, with engi-

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neering and other limitations, precluded the network from getting on the air with all five stations until September 1949—at a capital outlay of $11,500,000.

In short, in its first eight years as an independent network, ABC increased its owned and operated facilities from 2½ AM stations in three cities to 4½ AM stations in five "key" cities, having in the meantime improved its AM facilities in New York (by a change of transmitter site) and in San Francisco (by a seven-fold increase of power). It had become the licensee of FM and TV stations in those five same markets. It had increased the number of its AM affiliates from 168 to 298, the number of FM affiliates from 0 to 108, and the number of TV affiliates from 0 to 59. During this same period the company made capital outlays totalling $17,500,000. The number of employees had almost quadrupled—increasing from 715 to 2531.

From a total of $18,819,988 in 1943, the net sales of the company increased to $53,347,501 for the first 11 months of 1951. However, primarily because of television losses, the company's net income fell from a high of $1,520,756 in 1947 to a net loss of $519,085 in 1949. Even with the greatly expanded television billings of 1951, the [5819] combined radio and television networks operated at a loss, offset only by the earnings of the owned and operated stations in the five cities, leaving a net profit of only $268,060 for the first 11 months of 1951. At no time during the Noble regime did the network declare a dividend—all earnings having been plowed back into the company for improvements.

Creditable as ABC's overall growth had been during these 8 years, the famous capital gain deals of 1948 and 1949 and the concurrent upsurge of television, made it all too clear that the company needed additional resources in order to provide NBC and CBS with truly effective competition. In 1946, by agreeing to pre-record his program, ABC had greatly increased its Wednesday night audience by bringing Bing Crosby to its microphones—the first network to abandon the no-recording rule. ABC had also been able to program the half-hour of Wednesday night preceding the Bing Crosby program with a then new program—Groucho Marx in "You Bet Your Life". However, in 1949 when CBS was able to lure Crosby to its net-

work with a capital gains deal, ABC's limited capital made it unwise to compete in the negotiations. Consequently, ABC lost Crosby to CBS. Because it no longer had the large Crosby audience, ABC then lost Groucho Marx to NBC. Thus, with a single stroke of a pen, ABC's efforts to improve its share of the audience were largely erased.

[5820] If the stakes were high in radio, it took no great clairvoyance in the late '40's to recognize that the situation in television, absent additional resources, was going to be even more critical. Here again, ABC's shortage of affiliates with profitable Class I AM operations produced untoward and unforeseen consequences in TV. Following World War II, NBC and CBS (the former, particularly) had encouraged their affiliates, who were in a financial position to do so (generally those with major AM facilities), to protect themselves by getting television permits while they could be had for the asking. Thus, when the 1948–1952 TV freeze came along, and television sets in the hands of the public zoomed in those 4 years from 500,000 to 15 million, most of the 105 TV franchises then outstanding were held by persons long associated with either NBC or CBS. And with nearly all markets, except for a handful, limited to one or two stations thus associated with NBC and CBS, ABC faced an impossible clearance problem, particularly during the 1948–1952 "freeze"—as reflected by the 1951 gross billings of the four TV networks:

NBC	$59,171,452
CBS	42,470,844
ABC	18,585,911
DuMont	7,761,506

With talent and other costs many times greater in TV than in AM, advertisers had to be assured of substantial [5821] audiences. Unlike its more powerful competitors, in experimenting with new programs and new techniques, ABC was dependent on its broadcast earnings and on borrowed capital. Of the $8 million paid for the Blue in 1943, $4 million had been obtained through bank loans repayable in 1947. Early in 1946 ABC management, faced with the construction of FM and television stations, the establishment of a television network, and the retirement of the outstanding loans, concluded that

new financing was desirable. To that end, it amended its charter to permit the issuance to the public of 1,000,000 shares of stock, which Dillon, Read & Co. agreed to underwrite at $15 per share, $14 of this amount to be paid to ABC and the remaining $1 to be retained by the underwriters. This financing arrangement would have produced $14,000,000 in capital. The registration for the proposed offering was filed with the SEC in June 1946, and the consent of the FCC to a relinquishment of control of ABC (the stock issue would have diluted Mr. Noble's holdings from approximately 71 to 36 percent of the outstanding capital stock) was requested. Before the consent of the FCC was obtained, the market had dropped to a point where ABC and the underwriters felt that the offering, if made, might be unsuccessful. The SEC registration was therefore withdrawn.

[5822] Two years later, in May 1948, ABC made another smaller offering to the public of 500,000 shares of stock, which were sold by the same underwriter for $9 a share, from which ABC realized almost $4,000,000 after payment of expenses. Following the public offering, ABC applied for and was granted a listing on the New York Stock Exchange for its then outstanding 1,689,017 shares of $1 par capital stock.

These experiences with borrowing money to develop a truly competitive AM and TV network soon convinced ABC of the need of aligning itself with another company which would improve ABC's capitalization and earning power—if it were to continue its competitive struggle with NBC and CBS.[1] After discussions with a record company, two motion picture producing companies, a manufacturer of electronic equipment, and another network (CBS) had produced no commonly acceptable financial arrangement, and none which would further the public interest, a merger agreement was worked out

[1] Between 1941 and 1950 RCA's gross income had increased from $158 million to $586 million and its net income from $26.5 million to $97 million. Of its gross income for 1950 only 15.8% ($92,373,000) was derived from NBC's operations. RCA's working capital at the end of 1950 exceeded $130,000,000. CBS's gross for 1950 exceeded $124 million and its net working capital at the end of 1950 exceeded $13 million. In contrast, ABC's 1950 gross income was less than 8% of RCA's ($45,879,660)—derived solely from its broadcasting operations.

with [5823] United Paramount Theatres in the summer of 1951, a company with total assets of $119.7 million, and current assets of $39.4 million (including $35.5 in cash and government securities).

B. ABC (1953–1965)

By the terms of that agreement, ABC was to be merged into UPT, with the name of the merged company becoming American Broadcasting-Paramount Theatres, Inc. The 1,689,017 shares of ABC stock then outstanding were to be converted into 666,717 shares of AB–PT common and 608,047 shares of AB–PT preferred, with the UPT stockholders continuing to hold 3,260,228 shares of AB–PT common.

In subsequently passing on the merger thus proposed, the Commission concluded that the following considerations were relevant (8 RR 541, 594):

(a) the place of networks in our system of radio and television broadcasting;

(b) the emergence of ABC in 1943 as an independent network as a result of the Commission's network investigation, including the growth and accomplishments of ABC since 1943;

(c) the continued dominance of NBC and CBS in network broadcasting and the reasons therefor, including the handicaps under which ABC has operated and its resultant inability to provide the amount of competition which might have been expected from its establishment as an independent network;

(d) whether the merger with UPT will stimulate competition and result in an over-all improvement of network service; and

(e) whether the merger will lessen competition or tend to monopoly.

After analyzing the data which the parties adduced [5824] on these matters, the Commission granted its consent to the merger in a decision released February 9, 1953 wherein it summarized its reasons therefor as follows (8 RR 541, 623–629):

> We have long recognized that network broadcasting is an integral and necessary part of radio, and we have more

recently extended this recognition of the benefits of network broadcasting to the field of television. We have also recognized that the public interest is served by competition among the networks, both radio and television. Indeed, it was our concern with the necessity of stimulating competition in network broadcasting, . . . that led to the establishment of ABC in 1943 as an independent, competitive network. However, while ABC has been aggressive in securing AM affiliates, in obtaining its full quota of owned and operated television stations in major markets, in pioneering with respect to certain practices now standard network usage, and in developing special events and news programs which could be produced at moderate cost, it has not been able to compete effectively with NBC and CBS either in radio or television.

*   *   *   *   *

NBC and CBS were in the network television business before ABC. Because of the extent of their financial resources, they have been able, particularly in the early days of television when large losses were incurred, to give their affiliated stations a better program structure than that supplied by ABC. Furthermore, many of the television licensees are also the owners of NBC and CBS radio affiliated stations and naturally have been inclined to favor NBC and CBS in television station affiliations and clearances. As in radio, NBC and CBS have affilated with the most important station outlets. Furthermore, in most of the 1- or 2-station markets, the stations have a basic television affiliation with either NBC or CBS and clear considerably more time for programs of those networks than they do for ABC and DuMont programs. The inability to obtain station [5825] clearances poses a very serious competitive problem for ABC because NBC and CBS try to and do attract the sponsors of ABC programs to their networks on the basis that they can provide a much larger number of station clearances * * *

In addition to the other factors referred to above which place ABC in a difficult competitive position, reference must be made to the superior earning power and working

capital available to the other national networks, both radio and television, resulting from their other business interests. The significance of this as it relates to NBC, was also recognized by the Commission in its 1941 Report on Chain Broadcasting. There the Commission pointed out that: "NBC is but a branch—though an important branch—of a vast corporate enterprise which straddles the field of communications, radio-equipment manufacturing, and entertainment. The position of NBC in the field of broadcasting cannot be fully understood nor properly evaluated without some grasp of the history and activities of RCA. * * * RCA occupies a premier position in fields which are profoundly determinative of our way of life. Its diverse activities give it a peculiarly advantageous position in competition with enterprises less widely based." * * *

* * * * *

Upon reviewing the competitive factors hitherto discussed, we conclude that while the merger may result in some lessening of some aspect of the competition that exists, either presently or potentially, between ABC and UPT as separate companies, there is no reasonable probability that the merger will substantially lessen competition or tend to monopoly in any section of the country or in any line of commerce. * * * In our opinion, the merger will not only fail substantially to lessen competition but will promote competition. The merger will provide ABC with the financial resources to carry out its plans to strengthen its programming and improve its physical plant and thereby provide substantial competition to the other networks, enabling both its owned and operated stations and its affiliates to improve their service to the public, and stimulating the other networks and stations to compete in turn. Furthermore, the increased competition which the merger will foster appears certain, substantial and immediate whereas the lessening [5826] of competition which may occur would be minor, limited and remote. We therefore conclude that the merger will be in the public interest.

In the 13 years which have elapsed since the ABC–UPT merger was effectuated on February 9, 1953, many noteworthy improvements have been made in ABC's competitive position.[1]

ABC has increased its owned and operated AM and FM station set-up in key markets by purchasing KQV (AM and FM) in Pittsburgh, by acquiring WLS in Chicago (and thus converting WLS–WENR into one full-time Class I operation on 890 kc), and by having WAB's skywave service restored in the East (a matter still in litigation). Though many of the additions have been in the form of day-time only or Class IV operations, the number of its AM affiliates has increased from 294 to a figure in excess of 400. The number of its TV affiliates has more than quadrupled—increasing from 59 to 268 (of which 123 are primary affiliates). The TV network is providing a program service during almost twice as many hours each week as it did in 1952. It has established a news organization which spans the globe.

The Company's broadcasting revenues have increased from approximately $60 million in 1952 to $280 million in 1963, to $310 million in 1964, and $361.6 million in 1965. ABC's overall gross during the past twelve years has [5827] increased as follows: [2]

	1954	1959	1964	1965
Broadcasting	$70,424,000	$172,468,528	$310,135,000	$361,631,000
Theatres	115,916,000	91,149,286	78,891,000	80,982,000
Miscellaneous	2,456,000	24,349,597	31,889,000	33,852,000
Total	$188,796,000	$287,967,411	$420,915,000	$476,465,000

[1] By a change of corporate name effective July 2, 1965, American Broadcasting-Paramount Theatres, Inc. became American Broadcasting Companies, Inc.

[2] It will be noted that during the first year following the merger, more than 60% of the company's revenues were from its theatres, with less than 40% from its broadcasting operations. During 1965 the ratios had changed to the point that broadcasting and related revenues represented approximately five-sixths of the company's annual gross. Thus, as in 1952, ABC is once again largely dependent on revenues derived from its broadcasting operations.

Commendable though its efforts have been, the merged ABC has been unable to close the gap between itself and its two principal TV competitors (NBC and CBS). In striving to reach equality with these older and wider-based networks, ABC has been greatly handicapped by a shortage of equal outlets in many of the top 100 markets. With many principal markets of the country limited to two stations, ABC has been unable to obtain a national audience for all its TV programs and large segments of the public have been deprived of a choice of at least three program services. The effect of this shortage of outlets, as well as the cumulating effect of related competitive disadvantages under which ABC has operated, is shown by the following comparison (compiled by LNA/BAR) of network TV time sales and program billings for 1965:

[5828]

Network	Total Dollars	Dollars Greater Than ABC
ABC	$338,033,000	----------
CBS	492,310,000	$154,277,000
NBC	429,977,000	91,944,000

The 1965 CBS and NBC advantages of $154,277,000 and $91,944,000 in net time and program billings, compare with CBS and NBC advantages of $76,356,129 and $75,547,871 in gross time billings in 1953, the year of the ABC–UPT merger.

Since each of the three networks provides the public with relatively the same number of sponsored shows each week, this disparity in billings is a principal result of the major advantage which NBC and CBS enjoy in the number of stations primarily affiliated with their network and the greater gross billings that flow from the greater number of stations carrying their programs.

This is further borne out by the combined Class A hourly rates of the primary affiliates of the three networks for the winter of 1966:

Primary affiliates (winter–1966)

	Number of Stations	Class A Hour Rate	Advantage Over ABC (percent)
ABC	134	$117,280	----------
CBS	192	151,645	29
NBC	203	151,995	29

In those 86 markets where the three networks each has an affiliate with equal facilities (3 VHF or 3 UHF), the [5829] disparity in total gross Class A hour rates among the three networks is substantially less:

Total gross class A hour rates

	86 Markets—1966	% Greater than ABC
ABC......	$99,000	....
CBS.......	106,875	7
NBC......	110,405	11

That clearance handicaps cannot be entirely eliminated by better programming is illustrated by Nielsen ratings for 1966. In 30 markets where all three networks had equally competitive facilities, GIDGET on ABC ranked ahead of GILLIGAN's ISLAND and DANIEL BOONE which were offered at the same time by CBS and NBC respectively, whereas in overall national ratings (because of markets where ABC had no comparable outlets) the positions of the three programs were reversed:

Thursday 8:00–8:30 p.m., N.Y.T., six weeks ending 3/6/66—Average ratings

	Nielsen 30 Competitive markets	Nielsen National
Gidget..................	20.4	18.8
Gilligan's Island.......	19.3	21.7
Daniel Boone..........	17.6	23.1

[5830] Thus, although ABC has made major progress and its competitive position has much improved in the thirteen years since the merger, it has not yet been able, in large part because of the shortage of equal facilities in major television markets, to provide the full measure of competition that both ABC and the Commission envisioned in 1953. While the enactment of the all-channel law (barring a second failure of UHF) should improve ABC's position by providing additional competitive facilities within the next five years, networking is entering an era in which resources far beyond those envisioned in 1953, or even those envisioned a few years ago, will be neces-

sary to compete. Some of the increased financial requirements are already evident; others, required in the very near future as global television becomes a reality and as we enter the space age, can only be vaguely predicted.

Among the major expenditures which ABC immediately faces, if it is merely to retain the competitive position it has achieved, are the following:

(a) *Color conversion costs.* The estimated costs of equipping the ABC network and its owned stations for full color television will substantially exceed the costs that have heretofore been incurred for equivalent black and white equipment.

[5831] (b) *Increased entertainment program costs.* In the period 1960–64, the average network investment in a half hour pilot rose from $72,000 to $87,000, an increase of 21 percent, and the average investment in an hour pilot rose from $135,000 to $200,000, an increase of 48 percent; during the same period, the average cost of a single half hour new episode rose from $49,000 to $61,000, an increase of 24 percent, and the average cost of an hour new episode rose from $94,000 to $127,000, an increase of 35 percent. (A. D. Little Report, pp. 21–22, Docket 12782, February 18, 1966). Some total pilot production costs greatly exceed these averages—for example, *Big Valley,* $349,000; *Voyage to the Bottom of the Sea,* $373,000; and *Lost in Space,* $490,000. The successful programs also usually cost substantially more per episode than the average per episode figures—*Bonanza,* $187,000 per one hour; *Ed Sullivan,* $164,000 per one hour; and *Bewitched,* $72,000 per one half hour. (Source, *Television Information Office*). Costs for the 1966–67 season will be progressively higher, as has been the case in each new season.

(c) *Feature film production costs.* The 1966–67 network season will see an increase in the use of feature film in prime time network schedules—a total of 10 hours a week for the three networks combined—as well as a rapid drop in the reservoir of high quality feature film available [5832] for TV. The result has been both a major increase in the cost of prime feature packages plus the advent of joint venture and similar arrangements under which networks are joining the major motion picture companies and independent producers in the production of new features. In recent months, NBC has announced fea-

ture production arrangements with Universal Television; CBS with Warner Brothers; and ABC with MGM, Ivan Tors and MPO Productions. Multi-million dollar commitments will be required.

(d) *Increasing news, special events and public affairs costs.* To pick up the Gemini 7 splashdown, for example, the three networks pooled resources and paid $300,000 just for the equipment and men aboard the aircraft carrier Wasp. A single space shoot costs each network $1,000,000—and that does not include the money lost through eliminating regular commercial programs. The coverage of last year's 14-hour visit of Pope Paul to the United Nations cost the networks about $1,000,000 for pooled production, and with the pre-emptions of commercial programs the costs totaled about $5,800,000. (Source, Television Information Office).[1]

[5833] (e) *Increasing sports costs.* Each year, the TV rights for college and professional football and other sports escalate, with the top figure not yet in sight and with the possibility that sports may become another loss leader for the networks.

(f) *The cost of program innovations.* Television's major challenge is to create programs that depart from existing patterns. Innovation, until tested and proven, brings with it the uncertainties of viewer and sponsor acceptance. In the 1966–67 season, ABC will present "ABC Stage 66", a series of hour long dramas, musicals and other shows, featuring leading American and international playrights, musical comedy composers and major entertainment and drama stars, many of whom have not written or performed for television before. The programs to

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[1] The vastly increased commitments by networks to news and special events are well known: ". . . money stakes of broadcasting are changing momentously, brought on at least partly by (a) the quickening space race which the media have tacitly pledged themselves to follow clear to the landing of man on the moon—each space shot costing the tv nets millions more than the one before; (b) the deepening of the Vietnam war which tv and radio are obliged to cover and cannot afford to treat routinely lest they lose their standing as news media; and (c) the technological miracles that rapidly are making television a world medium and that invite wide experimentation, for future competitive reasons if not for those of conscience. And all these are, of course, strictly red ink items in the P&L, placing an even greater burden on the commercial schedules for profits." *Variety*, January 5, 1966.

be presented will include original musical comedies and drama shows written especially for television, comedies, variety shows and new and engrossing documentaries. ABC's "Stage 66" is one of the most auspicious projects ever undertaken by any network and is expected to bring a new dimension and vitality to television programming—all at a major cost.

The above six examples are only illustrative of the many greatly increased expenditures that are required merely [5834] to keep pace with television *as it has developed to date*. Enormous though they are, they will seem small in comparison with what will be required in the years ahead to realize the benefits to mankind that will become possible of attainment in the rapidly approaching era of satellites and global television. (See, for example, projections for the future in address by *David Sarnoff* before Screen Producers Guild, March 6, 1966; address by *Leonard H. Goldenson* before American Legion on February 28, 1966; and column by *Jack Gould,* New York Times, March 6, 1966.) The escalating costs will reach figures that were thought unbelievable a few years back. Resources much beyond those now available to a company of ABC's size—resources which its competitors enjoy to a much greater extent [1]—will be required.

With broadcasting costs escalating as they have of late, with television networking entering a new transition stage, with the gap still existing between ABC and its competitors, the conclusion is unavoidable that ABC should again seek to broaden its base of operations by joining forces with a company with greater capital resources, with more diversified earnings, and broader technical experience. To that end American Broadcasting Companies, Inc. has proposed to merge with and into a new wholly owned subsidiary of International Telephone and Telegraph Corporation, a subsidiary [5835] which will continue to have the name American Broadcasting Companies, Inc. after the merger. By the terms of the merger agreement ABC's stockholders, for the 4,670,812 shares which they presently hold, will receive approximately 2,675,951 shares of ITT common

[1] See comparative financial summaries of ITT, ABC, ITT–ABC combined, RCA and CBS in the attached APPENDIX.

and the same number of shares of a new convertible ITT preferred. The holdings of ITT's present 100,000 stockholders (21,301,141 shares) will remain unchanged.

C. ABC (1966–   )

In a technical sense the Commission's function is to approve or disapprove the proposed assignments or transfers by ABC of its AM, FM and TV licenses to the new ITT–ABC Company. The statutory standard by which the approval of disapproval must be made is whether the transfer and assignments are "in the public interest." By its very breadth that standard on the facts of these applications raises fundamental issues far transcending in significance those ordinarily attending a transfer or assignment proceeding involving individual broadcast licenses. The facilities here involved are the core of a far more important segment of the communications industry—the real subject of the assignments—namely, a national network system of television and radio broadcasting.

It follows that the public interest issues involved in these applications can be placed in proper focus only against the background of the past history and existing structure of the network broadcasting industry. This means [5836] that a determination whether the merger of ABC and ITT will be in the public interest must include an analysis, as it did in the ABC-UPT merger: (a) of the importance of networks in our system of radio and television broadcasting; (b) of the growth and accomplishments of ABC since 1953, and whether its performance to date gives promise of improvements in the future if the assignments are approved; (c) of the continued dominance of NBC and CBS in network broadcasting and reasons therefor; (d) of how the merger with ITT will stimulate competition and result in an overall improvement of network service; and (e) of why the merger will not lessen competition or tend to monopoly. The factual basis on which this analysis can be made has been largely set forth in the preceding pages. The analysis supports the merger here proposed.

1. *Importance of Networks.* Now, no less than in 1953, competitive networks are an essential part of the American pattern

of broadcasting. "Generally speaking and with few exceptions, the network program service [in TV] is indispensable to successful station operation, and spells the difference between financial prosperity and, at best, a marginal operation . . . . All groups concede that networks have made invaluable contributions to public service in broadcasting through the major role they have [5837] played in the development of our national television system and the provision of a national program service of entertainment, news and public service programming. Any action which might run the risk of undermining or destroying this vital segment of the broadcasting industry would seriously disserve the public interest." *Option Time Rules,* 18 RR 1822, 1934 (1958).

Elsewhere the Commission has stated its conviction that "the national networks have made invaluable contributions in the development of our system of television broadcasting and that networking is necessary to the continued growth and expansion of the service." *Option Time Rules,* 20 RR 1568, 1570 (1960).

In the era of global television immediately ahead, the importance of networks will certainly not diminish.

2. *ABC's Growth and Accomplishments since 1953.* ABC's growth and accomplishments since 1953, as heretofore briefly outlined, are well known to the Commission; they have been commendable and worthwhile. They have vindicated the Commission's action in 1941 requiring NBC to divest itself of one of its two networks and the Commission's 1953 decision allowing ABC to merge with UPT. These past accomplishments have been such that—with a more diversified base and with the additional capital and the technical and research knowledge which a merger with ITT will provide—they, along [5838] with the anticipated success of UHF, presage the establishment of ABC as a fully competitive network.

3. *Continued Dominance of NBC and CBS.* Though ABC's growth and the service it has provided are commendable, the same pattern of NBC and CBS dominance which existed in 1941, and which was discernible in 1953, still persists, although to a lesser degree. See the three network billings and other

statistics (pages 16–18 above) and the comparative financial data attached as an Appendix hereto.[1]

4. *Stimulation of Competition.* Additional financial resources, working capital and diversity of revenue-producing activities will greatly augment the competition which ABC will provide the other networks. As in 1953, "increased financial resources are essential to enable ABC to improve its program structure, build larger audiences, and thereby attract and retain sponsors and affiliates." 8 RR 541, 624. With five-sixths of its revenues coming from its broadcasting operations, its eggs are largely in one basket.

ITT will not only provide ABC with additional resources, but will also furnish the network with more technical experience—in connection with international television, space-age developments, synchronous satellites, etc.

[5839] In short, the merger will provide ABC with the financial, technical and other resources to carry out its plans to strengthen and improve its programming and thereby provide increased competition to the other networks, enabling both its owned stations and its affiliates to improve their service to the public and stimulating the other stations and networks to compete in turn.

5. *Lessening of competition or tending to monopoly.* As shown in the ABC and ITT Annual Reports which appear as part of Exhibit I–4 to these applications, ABC and ITT are presently engaged in essentially different enterprises. Each company is also confronted with substantial competition. There is scarcely any conceivable aspect of their operations where the merger here proposed could lessen competition.

In terms of broadcasting, the ABC broadcasting division of the combined ITT–ABC company would continue, for the foreseeable future at least, to be smaller in terms of billings, affiliates, etc. than either of its two competitors.

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[1] Between 1961 and 1965, RCA's profit after taxes increased from $35,511,-000 to $101,161,000. A combined ITT–ABC during this same period would have shown an increase in profit after taxes of from $58,629,000 to $91,675,-000. Although CBS would be the smallest of the three companies if the ITT–ABC merger were approved, it still would be of major size. Between 1961 and 1965, CBS's profit after taxes rose from $22,088,000 to $49,051,000, with an unusually high ratio of net income to net sales. (See attached APPENDIX).

A combined overall ITT–ABC and a combined overall RCA–NBC would be comparable on a financial and diversification basis.

CBS would be a smaller company than ITT–ABC just as it would continue to be smaller than RCA–NBC; but CBS has been large enough, and its management more than sufficiently competent, to accomplish the notable achievements described in its [5840] 1965 Annual Report as follows: "CBS Television Network was the world's largest advertising medium for the 12th consecutive year, attracted the largest audiences in broadcasting for the 11th consecutive year, and maintained its unbroken record as the nation's most popular medium of entertainment and information. Daytime sales reached an all-time high with advertisers spending almost as much on the CBS Television Network as on the other two networks combined."

In short, as the Commission stated with reference to ABC's 1953 merger with UPT, there is "no reasonable probability that the merger will substantially lessen competition or tend to monopoly in any section of the country or in any line of commerce . . . . In our opinion, the merger will not only fail substantially to lessen competition but will promote competition." 8 RR 541, 629.

D. WAIVER OF INTERIM TOP FIFTY POLICY

There can be little question, in the light of the foregoing considerations, that the instant merger will definitely serve the public interest. If such be the fact, a current rulemaking *proposal* (Docket 16068) should not dictate a different result. There the Commission, though not proposing to require existing licensees to dispose of current holdings in excess of any new limitations promulgated for the top 50 markets, does propose to foreclose any voluntary transfers in contravention of whatever new ceilings are ultimately adopted. [5841] Although the Commission has promulgated an "interim policy" designed to prevent persons from acquiring additional facilities under the current multiple ownerships while more stringent limitations are being considered, neither the spirit nor purpose of that interim policy should preclude the transfers here being proposed.

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ABC presently has 5 VHF stations, 6 AM and 6 FM stations—as permitted by the existing multiple ownership rules (Rule 73.36, Rule 73.240, Rule 73.636). ITT has no broadcast licenses of any kind. Thus, the merger of ABC into ITT will not create any additional entities which for the first time would have in excess of three TV stations in the top 50 markets. Nor would it create a situation (as in WGN-Denver) where an entity would acquire an additional facility which would put its holdings beyond those currently proposed in Docket 16068. To apply the "interim policy", so as to preclude a *substitution* of one legal entity for another (where existing multiple holdings would in no way be changed, where the existing owners would continue to be owners, and where the existing management, personnel and policies would be unchanged), at a time when the Commission is *not* proposing to require any divestiture, would clearly be beyond the Commission's purpose in adopting the "interim policy."

Even if the "interim policy" were intended to cover the somewhat *pro forma* transfers and assignments of the [5842] present type, a hearing is not rendered mandatory where, as here, a "compelling affirmative showing" has been made that the proposed shift will serve the public interest. See *Channel 2 Corp.,* FCC 66–219, released March 4, 1966. Under the instant merger arrangement, the number of groups with 3 or more stations in the top 50 markets is in no way changed. No licensees will have any more stations or any fewer stations in the top 50 than they have at present. The shift of licenses from one entity to another will not produce any new or different "concentration" or "control". The merger here proposed, as heretofore shown, will provide ABC with a more diversified base and more capital and other resources. It will promote greater competition among the networks; it will insure more program diversity; and, it will assist UHF development, for ABC has more to gain from the success of UHF than either of the other two networks. And, so far as multiple ownership, numerical ceilings, concentration or duopoly are concerned, the existing situation will not be changed.

In several respects this is an *a fortiori* situation over WGN's acquisition of a third VHF station in the top 50 markets which

the Commission approved March 4, 1966. There, unlike here, the seller did not select a purchaser with no stations in the top 50 markets. The acquisition there considered, unlike here, augmented by one the number of groups which would have holdings in the top 50 in excess of the ceilings currently being proposed. Here, no less than there, [5843] the additional and diversified resources will result in substantial improvements in programming and will render ABC's operations more competitive.

Finally, as heretofore stressed, the benefits that will flow from strengthening the least strong of the three national television networks, will extend not only to the five markets in which ABC owns TV stations but to all ABC's affiliated stations.

When all these considerations are placed in the scale, they certainly meet the test of a "compelling affirmative showing" why the applications should be approved without hearing. Clearly, therefore, the public interest advantage of the merger outweighs any multiple ownership disadvantages to which the Interim Policy was directed and which are not here present.

E. CONCLUSION

ABC believes that its long range growth objectives, particularly in the broadcasting field, will be enhanced and strengthened by its merger with ITT. One important benefit is that ABC, as part of the diversified ITT organization, will have a broader financial base, and, therefore, will be less affected by the wide fluctuations in earnings that are typical of the television networking business. The result should be greater financial stability and greater freedom to plan and develop for the future.

[5844] A second important benefit of the merger is that ITT's research knowledge and scientific advances will also expand and improve ABC's ability to serve its listeners. At the same time, ITT's association with ABC can be expected to stimulate and facilitate still further technological achievements by ITT to the benefit of the communications industry and the public, as well as ABC.

Finally, by bringing to ABC ITT's long and successful experience abroad, the merger will enhance ABC's and this country's growth in international, as well as domestic broadcasting.

[5935] * * * * *

[Excerpts from Plans and Agreement of Merger]

4.6. ABC and ITT further agree that:

(a) ITT may, through its own representatives, make such reasonable investigation of the assets and business of ABC and the Subsidiaries as it deems necessary or advisable, but such investigation shall not affect ABC's representations and warranties hereunder or ITT's right to terminate this Agreement as provided in Section 5.1. ABC agrees to permit ITT and its representatives to have, after the date of execution hereof, reasonable access to the premises and to such books, records and other documents (including, without limitation, all contracts, agreements, plans, leases and licenses to which either ABC or any Subsidiary is a party) of ABC and the Subsidiaries and ABC will furnish to ITT such operating data and other information with respect to the business and operations of ABC and Subsidiaries as ITT shall from time to time reasonably request. In the event of the termination of this Agreement ITT will deliver to ABC all documents, work papers and other material obtained from ABC relating to the transactions contemplated hereby, whether so obtained before or after the execution hereof, and will use its best efforts to have any information so obtained kept confidential. ITT agrees that if all such information requested by it has been duly furnished its investigation pursuant to this Section shall be completed within 60 days after the date of execution of this Agreement and in no event later than seven days before the Meeting of Stockholders of ABC referred to in Section 4.6(c) below. If all the information requested by ITT has been duly furnished and if ITT does not notify ABC before the expiration of said period of 60 days provided for in this Section 4.6(a) or by the seventh day before the Meeting of Stockholders of ABC referred to in Section 4.6(c) below, whichever is the earlier, that it elects to terminate this Agreement pursuant to Section 5.1, specifying the reason or reasons for such termination, then, for all purposes of this Agreement, ITT shall be deemed to have been

satisfied with the information relating to ABC disclosed to it by ABC or obtained in the course of its [5936] investigation and be deemed to have waived any misrepresentation or breach of warranty by ABC of which it shall then have knowledge.

[5937] * * * * *

(h) In order to preserve the management, operating personnel and policies of ABC, and in order to give effect to the continuance of the ITT Subsidiary as an autonomous subsidiary, ITT agrees that it will not during the three years following the Closing Date change the number, powers or the membership of the Board of Directors of the ITT Subsidiary as originally constituted pursuant to this Agreement (other than the two members to be designated by ITT as provided in this Agreement) or the management of the ITT Subsidiary as originally constituted pursuant to this Agreement unless there has been a material deterioration in the business or financial position of the ITT Subsidiary and its subsidiaries taken as a whole in relation to the broadcasting and theatre industries which adversely affects the interests of ITT as a stockholder. In such event the Board of Directors of ITT, after consultation with the Board of Directors of the ITT Subsidiary, may take such action it deems necessary in the best interest of ITT and its stockholders. Replacements on the Board of Directors of the ITT Subsidiary during such three year period, other than persons designated by ITT, shall be designated by the ITT Subsidiary and shall be subject to the approval of ITT. ITT further agrees that in connection with any application to, or proceeding before the Federal Communications Commission in connection with the Merger, ITT will represent to the Federal Communications Commission that it will carry out its agreement pursuant to this paragraph (h). ABC agrees that ITT shall be kept fully informed by the ITT Subsidiary with respect to its business and operations. While it is understood and agreed that ITT will rely on the Board of Directors of the ITT Subsidiary to assume the customary authority and responsibility for the management and conduct of its business. ABC agrees that during the three years following the Merger matters of major importance will be submitted to the ITT Board of Directors for approval before becoming effective.

(i) ITT agrees that it will recommend to its stockholders at the Meeting of Stockholders at which the Merger is to be considered the approval of the designation by ABC of four persons (consisting of Leonard H. Goldenson, Simon B. Siegel and two other directors of ABC who shall not be employees of ABC or its subsidiaries or affiliates and who shall have been approved in advance by ITT) to be elected to the Board of Directors of ITT, such election to take place at the time of the Merger or at the first meeting of the Board of Directors of ITT following consummation of the Merger. The persons so designated will be elected to serve until the next annual meeting of stockholders of ITT. Similarly, unless the provisions of paragraph (h) have been suspended as provided therein, ITT further agrees to recommend to its stockholders at such annual meeting and at the annual meeting in each of the two succeeding years the election to the Board of Directors of ITT of such persons or, in the event of the inability or unwillingness of any such person to serve, another person designated by the ITT Subsidiary who shall have been approved by ITT. ITT further agrees, unless the provisions of paragraph (h) have been suspended as provided therein, to cause the election of Leonard H. Goldenson, and any such other director of ABC who is not an employee of ABC, referred to above, who shall have been elected to the Board of Directors of ITT pursuant to designation by ABC, to the Executive Committee of ITT at the first meeting of the Board of Directors of ITT following consummation of the Merger and to use its best efforts to cause their reelection (or in the event of the inability of any of them to serve, the election or re-election of another person or persons designated by the ITT Subsidiary who shall have been approved by ITT) thereto annually for a period of 2 years thereafter, and in any event for a total period of not less than 3 years from the Closing Date.

[5938] * * * * *

5.1. This Agreement and the transactions contemplated hereby may be terminated at any time prior to the Closing Date:

(a) by mutual consent of the Boards of Directors of ITT and ABC;

* * * * *

(e) by the Board of Directors of either party if the Merger shall not have been consummated by June 30, 1967, which date may be extended by mutual agreement of the parties and shall be extended to December 31, 1967 if the sole reason for such extension is to obtain the required order of the Federal Communications Commission or permit such order to become a Final Order;

[5939] * * * * *

(h) by the Board of Directors of ITT if the business or assets or financial condition of ABC and Subsidiaries taken as a whole have been materially and adversely affected by any cause or for any reason (other than as a result of changes or developments or operations in the ordinary course of business but including action pending or threatened by any regulatory body or by any government);

[355] AMERICAN BROADCASTING COMPANIES, INC.,
New York, N.Y., July 25, 1966.

MR. BEN F. WAPLE,
Secretary, Federal Communications Commission,
Washington, D.C. 20554

DEAR MR. WAPLE: I am very pleased to respond to your letter of July 20, 1966, in which you have requested me, as President of American Broadcasting Companies, Inc., to submit "a statement specifying in further detail the manner in which the financial resources of ITT will enable ABC to improve its program services and thereby better to serve the public interest." I am also most appreciative of the dispatch with which the Commission and its staff are processing these applications and of the opportunity you have afforded us to supplement our showing by written submission. With a new television season only weeks away and with basic determinations and commitments already being made affecting the 1967–1968 schedule, we are desirous of furnishing you as quickly as possible any information which will enable you to pass promptly on the pending merger proposal.

In this letter I will first cover ABC's need for the additional financing and other resources that will be provided by ITT,

and the benefits to the public that will flow from the availability of those resources. In a second part of the letter I will address myself to the concern expressed by the two Commissioners who favored a hearing to make sure that ABC maintains its separate identity in ITT and does not become but a subordinated adjunct of a company with far wider interests. My views on this concern, against which we have fully guarded in our merger arrangements, may be of particular interest to the Commission, for issues of the same kind were raised in 1953 at the time United Paramount Theatres, the larger company, was acquiring the smaller ABC. I was then President of the acquiring company and could have been expected to examine the matter at that time from a different perspective than I now have in the ITT–ABC merger, where the shoe is now on the other foot. Based on my 13 years' experience at ABC and UPT, and on understanding we have reached with ITT and which are set forth in the agreements between the two companies, I am convinced that the ABC broadcast activities, as part of ITT–ABC, will be as unsubordinated as they have been as part of UPT–ABC, and that the association between the two companies will greatly contribute to the expansion and improvement of broadcasting service, without occurrence of any of the inhibiting influences on which the dissent speculates.

I. PROGRAM IMPROVEMENTS

As recognized by the phrasing of your inquiry, the merger application as submitted on March 31, 1966, contains a considerable showing on ABC's need for additional financial resources and their use to improve our program service. (This showing was contained in Exhibit I–3, Attachment H, to the application, entitled "ABC—Past, Present and Proposed." As a convenience in reference, this exhibit has been reproduced and is attached to this letter.) For competitive reasons, the need for additional financial resources, the specific amounts required, and the use to be made of these funds were often phrased generally. We are also aware that the Commission has available to it in its confidential files detailed information on ABC's resources and earnings, as well as similar information on the other two networks, from which analyses could be made,

comparisons drawn, and the need for additional resources evaluated.

As the Commission's records show, the ABC Television Network has operated at a loss during the past three years. From a profit of $3.3 million in 1962, the network dropped to a loss of $4.6 million in 1963, a loss of $8.4 million in 1964, and a loss of $5.6 million in 1965. In contrast, the combined profits of the other two networks during this period rose steadily: from $33.4 million in 1962 to $61.0 million in 1963 and $68.6 million in 1964. (Separate figures for each of the two networks are not available; 1965 figures have not yet been released by the FCC.) Although ABC's network losses during these years have been more than offset by the profits of the ABC-owned stations—$16.2 million in 1963, $21.9 million in 1964, and $25.5 million in 1965—ABC's share of the total broadcast profits of the three networks and their owned stations has dropped substantially. In 1962, ABC's share was $20.2 million of a total profit of $111.4 million (18 percent); by 1964 it had dropped to $13.5 million of a total profit of $156.5 million (9 percent). (1965 figures not yet released by FCC.)

During this period total industry broadcast revenues and profits increased rapidly: revenues from $1,486.2 million in 1962 to $1,793.3 million in 1964, and profits of $311.6 million in 1962 to $415.6 million in 1964. ABC shared in the increased revenues, of course, but its increased cost of operation—mostly due to an expanded operating schedule, increased commitments in news and public affairs, and the rising costs of program rights—more than outdistanced the increased revenues. For example, between 1961 and 1965 program expenses for the TV network alone increased by $50 million—from $136 million to $186 million.

As the Commission is aware, and as we have pointed out in our application, the need for very large financial resources, if a fully competitive network service is to be provided, will continue to expand. Some of these demands are already evident; others required in the very near future as global TV becomes a reality and as we enter the space age can only be vaguely predicted. Illustrative of the capital requirements for *plant and equipment* already known and planned by ABC are $34.0 million (in addition to $10 million already spent through 1965)

for conversion to color; $17 million (in addition to $6.5 million already spent) to purchase and furnish ABC's new office headquarters building in New York City; and approximately $90.0 million for constructing and equipping *new* studio complexes to be built in New York and Los Angeles, as a part of our long range plan. If the additional ITT resources are not obtained, much of this improvement in plant and equipment, including the conversion to color, will have to be scaled down or spread over an extended period.

During the next six months (July–December, 1966) the Broadcast Division will have cash requirements of $36 million, consisting of $25 million to acquire program rights and $11 million for property and equipment. During this same six-month period the Division will generate approximately $7 million in cash from depreciation and after-tax earnings. The difference—$29 million—must be made up from cash on hand, not to be recovered until a later date. This substantial cash requirement is being met by the use of borrowed funds. ABC's loan indebtedness five years ago was $52.5 million; it has since been increased to $67.5 million. The ability to borrow is often dependent on factors over which the borrower has no control, including the state of the national economy.

As detailed in the attachment to this letter, ABC is a smaller company, with far fewer shares of capital stock outstanding, than either of its two national network competitors. Its business activities are largely limited to entertainment—a highly volatile and cyclical business. As a consequence, a drop in program ratings, even of relatively small amount or temporary duration, can have a drastic impact on its publicly-traded shares. With a nondiversified business and with relatively few shares of stock outstanding, poor ratings can and do cause substantial dips in stock prices, which in turn can result in large purchases by potentially divisive buyers, leading to efforts to upset corporate control. These factors produce a restraining influence on management's ability to incur important long-term commitments essential to program improvement. They also tend to keep innovation, with its attendant high risks, at low levels; and they exert pressure to keep to a minimum the losses inevitably incurred in news, public affairs, and special events programming.

Although ABC has performed remarkably well under these handicaps, aided by a national economy which has been on the rise, the ever increasing financial demands, immediately capable of fulfillment on the advanced time table that would be made possible by the merger, are beyond its present capacity, unless deferred or scaled down. By associating itself with a company with five times the capitalization of ABC, with widely diversified business interests, and with four times ABC's resources, an adverse ratings report (with broadcasting representing only 13 percent of the merged company's net and gross) will not produce disastrous stock dips. Thus buttressed, management will be able to take program risks and engage in long-range development that are beyond the company's resources as now constituted.

The importance of additional financing and ABC's associating with a more widely based company must also be considered in the light of ABC past competitive weaknesses, first in AM and later in TV, since its establishment as an independent network in 1943 (see the attachment hereto). It is the youngest of the three networks; it is more dependent on struggling UHF stations; it has lesser resources on which it can fall back.

Furthermore, the need for additional financing and the programming benefits therefrom must be viewed in the light of costs and uncertainties which lie ahead. Broadcasting is dynamic and changing. Radio, after its appearance in the '20's, dominated the scene through World War II. Television has come to the front since the '50's. The emergence of color as a dominant phenomenon is a current development. Networking by satellite lies in the immediate future. The possible impact which pay TV and CATV may have on television operations as we know them today remains to be seen. Of only one thing can we be sure—survival in this dynamic industry will go to the fittest, those with the know-how, the resources, and the ability to serve the public interest.

Viewed in this light, ABC's association with a more widely-based company with additional financial resources will result in improved program service in numerous respects, including:

1. *It will enable ABC to innovate.* The principal current criticism of television is "sameness". It is understandable to copy a format which has been tried and proved. Innovation,

until tested and proved, brings with it the uncertainties of viewer and sponsor acceptance. Though always owing a fiduciary responsibility to its stockholders, management of a diversified company whose eggs are not all in one basket can take risks which a one-purpose company cannot—because of the untoward and serious consequences of an unfortunate mistake. In short, the tendency of successful companies to diversify, so noticeable in the past ten years, is not accidental.

2. *It will permit ABC to present more spectaculars.* Although initially planned before the ITT merger developments of December 1965, ABC has been proceeding with "ABC Stage 66" (now "ABC Stage 67"). "ABC Stage 67" is one of the most ambitious projects ever undertaken by any network, and it is expected to bring a new dimension and vitality to television programming (though not to the cash register)—all at a major cost. Whether such spectaculars are to be a continuing feature, rather than an episode in our television development, is necessarily dependent in part on ABC's financial resources.

3. *It will permit ABC to provide still more news, special events, and public affairs.* All three networks have long become reconciled to the fact that the cost of bringing news, political conventions, Gemini flights and like programming to the public greatly exceed the advertising revenues derivable therefrom. The losses which can be borne by any network for such programming are not unlimited. As the youngest network, with the lowest revenues and least capital, ABC has had to consider costs in determining the extent to which it can provide elaborate live coverage of public affairs and newsworthy events. Nevertheless, in the past five years it has expanded the personnel of its News Department by more than tenfold and has increased its annual expenditures for news and special events from $10 million to $28 million. With additional resources to fall back upon if need be, further news and special services, such as the planned expansion of the evening news block to 30 minutes in color and the "Africa" series, can be expected.

4. *It will enable ABC to continue feature film presentations.* The substantial increase in the use of feature films in prime-time network schedules during the past season, and proposed by all three networks for the forthcoming season, gives indication of continuing. The result has been both a major increase in

the cost of prime feature packages, plus joint ventures by the networks with picture companies for the production of new features. Because of the voracious appetite of television for program product, multi-million dollar commitments will be required for prime-time feature film; for example, the cost to ABC of network rights to "The Robe" and "The King and I" was $4 million.

5. *It will enable ABC to expand its sports programming.* Each year the TV rights for professional sports have escalated, with the figures far in excess of what was thought possible in the '50's. Not only are sporting events not heretofore shown on television being brought into the home, but events once on television and lost because of the costs, such as heavyweight championship fights, are returning. If pay TV, in some form or other, becomes a reality, the price of sports rights will undoubtedly further escalate; and if free TV is to retain these events, backing such as that possible from a company of ITT's size will be necessary.

6. *It will speed ABC's conversion to color.* As I have indicated above, ABC faces an additional expenditure of $37.5 million in plant and equipment to complete its conversion to color. Without additional resources, it is apparent that ABC will have to choose between slowing down on color conversion or cutting back on other planned projects. Merger with ITT will make this choice unnecessary.

7. *It will enable ABC to meet other increased program costs.* As pointed out in the attachment hereto, in the period 1960–64, the average network investment in a half hour pilot rose from $72,000 to $87,000, an increase of 21 percent, and the average investment in an hour pilot rose from $135,000 to $200,000, an increase of 48 percent; during the same period, the average cost of a single half hour new episode rose from $49,000 to $61,000, an increase of 24 percent, and the average cost of an hour new episode rose from $94,000 to $127,000, an increase of 35 percent. (A. D. Little Report, pp. 21–22, Docket 12782, February 18, 1966.) Some total pilot production costs greatly exceed these averages—for example, *Big Valley,* $349,000; *Voyage to the Bottom of the Sea,* $373,000; and *Lost in Space,* $490,000. The successful programs also usually cost substantially more per episode than the average per episode figures—

Bonanza, $187,000 per one hour; *Ed Sullivan,* $164,000 per one hour; and *Bewitched,* $72,000 per one half hour. (Source, *Television Information Office.*) Costs for the 1966–67 season are progressively higher, as has been the case in each new season.

8. *It will enable ABC to be more competitive.* The Commission has long been on record that competitive networks are an essential part of the American pattern of broadcasting. At present, generally speaking and with few exceptions, a good network program service is indispensable to successful operation, particularly UHF. By being more competitive with CBS and NBC, ABC will strengthen its affiliates (VHF and UHF). Healthy affiliates are, in turn, indispensable to local television operations. As in 1953, "increased financial resources are essential to enable ABC to improve its program structure, build larger audiences, and thereby attract and retain sponsors and affiliates." *ABC-Paramount Merger,* 8 RR 541, 624 (1953).

9. *It will further the growth of UHF.* ABC, as the network with fewer outlets and less over-all coverage, has a tremendous stake in the growth and development of UHF. By becoming a fully competitive network, ABC can speed up the growth and development of UHF, particularly in markets presently limited to one or two VHF stations.

ITT's contributions will not be limited to financial support. As the application points out, the proposed merger will make available to ABC and to the television audience the result of ITT's extensive research, knowledge, and technical know-how, including its leadership in international television, space-age developments, and synchronous satellites. In short, the merger will provide ABC with the financial, technical, and other resources to carry out its plans to strengthen and improve its programming, thereby providing increased competition to the other networks, enabling both its own stations and its affiliates to improve their service to the public, and stimulating other stations and networks to compete in turn.

II. ITT'S DIVERSIFIED INTERESTS

We respectfully submit that any concern over granting broadcasting and networking facilities to a company the largest part of whose interests are in other fields is misplaced, a fact

substantiated by this Commission's experience from the beginnings of broadcasting and confirmed by my own experience at ABC–UPT since 1953.

This is not a new concern; it has been expressed from time to time by individual Commissioners in the past. In every instance, however, the Commission has voted to grant the applications, and in no instance of which we are aware has the Commission later encountered any instance in the operation of these multipurpose companies in which the broadcasting activities were being subordinated to other interests of the companies. In fact, many of these licensees are among the most outstanding broadcasters, responsible for much of the technical, programming and other advances in radio and television.

More than 20 years ago, in the *Avco* case, 3 RR 6, 31, 41 (1945), certain Commissioners dissented to the proposed transfer of the Crosley licenses to "a holding company . . . engaged in activities ranging from the manufacture of kitchen sinks to the conduct of stock brokerage business, including the manufacture of airplanes, ships, steel, and the control of a large utility holding company." The majority, in answering this contention, referred to the large number of licensees engaged in other enterprises (pp. 19–20). As the majority pointed out, "the notion that all large business concerns are unfit to hold a broadcast license" ignores firmly established precedents; large companies, such as Ford, Gimbel Brothers, Warner Brothers, Westinghouse, and General Electric, "were among the pioneers of the radio industry and contributed much to the development of the art."

Though of the view that extensive interests in other businesses could not under the Act as written be used as a basis for rejecting Avco's acquisition of the Crosley broadcast properties, the majority did believe that the matter of entrusting radio licenses to companies "whose principal business interest lies in other fields" was one to which Congress should give consideration:

> "We suggest that Congress consider the advisability of further defining the qualifications of licensees and particularly to determine as to what extent holding companies, investment banking groups, large industrial empires, large manufacturing companies and other businesses should be

permitted to control radio broadcasting stations. Many present licensees who are included in these groups have made substantial contributions to the development of broadcasting. If, however, national policy should require that certain types of enterprises be ineligible to enter the broadcasting field, that is a question which the Congress and not the Commission must decide."

The *Avco* decision, and the recommendations and views contained therein, were thereafter duly reported to Congress. Congress chose not to adopt the Commission's suggestions.

From the outset of our negotiations, both Mr. Geneen and I were in agreement that one of our objectives should be to establish arrangements which would enable ABC to be continued as a separate corporation and operated as a substantially autonomous unit, apart from the other ITT operations and unaffected by other commercial or similar interests of ITT. I believe that the arrangements agreed upon, which are summarized in my letter of March 18, 1966, to Mr. Geneen and his reply to me of March 28, 1966, meet this objective, as well as establish the procedures by which the parent company will be in a position to discharge the over-all responsibility that is expected of it by the FCC.

In closing, I would like to mention again that there are many highly diversified companies which have been broadcast licensees for decades, including Westinghouse, GE, RCA, Avco, and General Tire. There are also other major companies with interests in broadcasting who also have interests in other activities, such as magazine and newspaper publishing, which, in a broad sense, may be considered as competitive to broadcasting, including Meredith, Triangle, Hearst, Scripps-Howard, Time-Life, Chicago Tribune, Cowles, Cox, Gannett, Metro-Media, and Newhouse. In all of these situations, particularly where the owners are in competing businesses, there is some theoretical possibility that the welfare of broadcasting will be subordinated to that of the other business activity. But experience has shown that this has not occurred.

As Commissioner Bartley points out, broadcast licensees, unlike newspapers, hold their licenses as public trusts. All broadcast licensees are subject to the requirements of the Com-

munications Act and of the Commission's rules and policies, including equal time, fairness, sponsorship identification, etc. They are also subject to periodic license renewal review. In the case of ABC's 17 licenses, there is hardly a time when one or more of those licenses are not pending before the FCC on renewal. If the fears that Commissioner Bartley expresses were to materialize, and I am confident they would not, the FCC has more than adequate authority to correct any abuse.

III. CONCLUSION

I trust that the foregoing matters will be of assistance to the Commission in disposing of any doubts concerning the public interest advantages which will flow from approving the merger here requested.

Very truly yours,

LEONARD H. GOLDENSON.

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[354] INTERNATIONAL TELEPHONE AND TELEGRAPH CORPORATION,
320 PARK AVENUE,
New York, N.Y. 10022, July 25, 1966.

Mr. BEN F. WAPLE,
Secretary, Federal Communications Commission,
Washington, D.C. 20554.

DEAR MR. WAPLE: In response to your letter of July 20, I am pleased indeed to provide the following information in connection with your review of the pending applications for the transfer of the American Broadcasting Companies station licenses to a new corporate subsidiary of ITT.

The ITT Board of Directors reviewed and considered during its meeting of April 13, 1966, the applications for transfer of ABC's station licenses. It approved all the undertakings set forth in my exchange of letters with Mr. Goldenson, copies attached, including the undertakings which generally made available the financial resources of ITT to ABC, as needed. Of course, specific requests in the future will require specific ITT Board approval. Although there is no way of detailing with exactitude, what ABC's needs might be in the future, they will

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embrace (a) proposals to make the network more viable and competitive and (b) programs which serve the public interest.

Let me say that the Board of Directors of ITT is fully aware of the fact that ABC has a broad and important public responsibility. Every member of our Board and I personally considered this in detail in the course of our Board meetings on this subject and we all understand our responsibility to the public. Every member of our Board understands fully, I am certain, the present disadvantageous competitive situation of ABC in respect to the older two networks, and the future problems that ABC will face in proceeding against the stronger positions of the older and longer-established networks, both at viewer levels and in affiliate and commercial levels. Part of this disadvantageous position is, as we know, one which is historic to the problem of a third and newer network attempting to compete with two older networks. Also to some extent and without anyone's fault, it is due in part to the fact that ABC does not have the physical plants of the older two networks and the coverage of their affiliates, which are capable of reaching larger numbers of viewers, one of the serious handicaps that ABC faces. These needs have been documented in numerous pleadings which ABC has filed with the Commission during the past ten years.

ITT's annual consolidated earnings are now approaching the $100 million a year level, its present consolidated assets are in excess of $2 billion, and the parent alone currently has a line of credit in the amount of $140 million with a nation-wide group of banks, and cash on hand of approximately $30 million. It can create substantial additional long term debt within the terms of its most restrictive debt instruments. ITT also has available for financing purposes over 1,000,000 shares of Cumulative Preferred Stock, and will, after completion of the merger with ABC, have approximately 2,200,000 shares of Cumulative Convertible Preference Stock (Participating) available for financing purposes. In addition the company has in excess of 20 million shares of authorized but unissued Common Stock. The company, therefore, has very large and ample credit and capital resources available to it to carry out any projected programs of growth for any of its operations or its subsidiaries. These financial resources would be many times those available to ABC

and insure the ability to support a more rapid program of growth in ABC. Any funds derived from ITT corporate financing can be advanced to ABC on open account or as additional equity capital in the same manner as funds are made available to ITT's other subsidiaries. In the event it proves preferable for ABC to do its own direct financing, ITT is prepared to support its subsidiary with a suitable guarantee should such be necessary or desirable. Such financial support will make it possible to free ABC from the vagaries of financial pressures in their present third position. It would also enable them to take the steps necessary to improve service to the public.

The merged organization will have a substantial degree of diversity which will provide stability for ABC's operations which it does not now have. The benefits of such diversification and broad based financial support are evident for example in the operations of RCA, AVCO, General Electric and Westinghouse. It is apparent that the broadcast divisions of these broadly diversified companies have not been subordinated nor handicapped, but have, in fact, benefitted by the diversification of the parent. Experience shows the Commission need have no concern on this subject.

In addition to the financial support outlined above, ITT is also prepared and equipped to give substantial technical support to ABC in the fields of telecommunications and electronics. In 1966 ITT will expend $180 million for research and development work and employs 18,000 engineers. It is a pioneer in satellite communications systems as demonstrated by its contributions to the Relay, Courier and Intelsat programs and the recent coverage of the Gemini shots. ITT's research knowledge and scientific advances will help expand and improve ABC's ability to serve its listeners. At the same time, ITT's association with ABC can be expected to stimulate and facilitate still further technological achievements by ITT to the benefit of the communications industry and the public, as well as ABC.

The ITT Board of Directors was fully apprised, in the course of meetings which preceded ratification of the Plan and Agreement of Merger, and particularly at the Board meeting of April 13, 1966, in which the applications for approval of the transfers of ABC's station licenses were approved, of its respon-

sibilities to the Federal Communications Commission and the public as the Board of Directors of a parent corporation of a licensee of numerous stations operating under FCC rules and regulations. It will fulfill all of those responsibilities.

As Chairman and President of ITT, I can assure you that the Board of Directors of ITT, and its designated officers are familiar with the statements and representations in the applications for consent to assignment of broadcast station licenses submitted by ABC on March 31, 1966, and of their responsibilities to the public and to the Commission. At the meeting of April 13, a presentation was made to the Board with regard to ABC's Standards and Policies, and the Radio and Television Codes of the National Association of Broadcasters which govern the material broadcast over ABC facilities, including the Program Standards, Advertising Standards and Regulations and Procedures of both Codes. A review was also made with the ITT Board of the ABC Television Network and Radio Network, and the ABC owned TV and Radio stations, including programing policies and procedures for ascertainment of community needs and interests, all as set forth in the formal applications submitted by ABC. Full documentation on the applications as well as summaries thereof were presented to, and reviewed by Board members.

In the case of ABC and ITT we have taken a very unusual step in the history of our company in that we are placing two members of our Board of Directors on both the Board of Directors and the Executive Committee of ABC, and ABC, in turn, is placing four directors on the Board of ITT, three of whom also will be on its Executive Committee. I think these steps alone are sufficient to indicate both the seriousness with which we intend to carry out the intentions which I have expressed above and the mechanics by which such approvals and authorizations would go forward. This interchange of Board members and the fact that I personally, together with one of our highest executives, will sit on the ABC Board will, perhaps, give you further assurance of our intention of carrying out our responsibility to the full extent that the Commission desires.

ABC will operate as a substantially autonomous subsidiary. As we have stated in the applications, the broadcasting opera-

tions of ABC will be kept separate from other ITT operations and the operations of ABC as a licensee will be performed unaffected by commercial, communications or other similar interests of ITT.

Let me assure you that to the extent the statements and representations in the applications submitted by ABC represent promises of future performance by ITT, ITT fully accepts the commitments and considers itself bound by such statements and representations. As indicated in my letter to Mr. Goldenson of March 28, which was approved by the ITT Board, ITT does concur in all respects with a continuation of ABC policies, and the operational procedures described in the ABC Standards and Policies, television and radio programing policies and the individually owned stations programing policies. As Chairman and President of ITT, acting pursuant to the ITT Board's approval on April 13, 1966 of the applications filed, I am authorized to submit these assurances on behalf of ITT.

Very truly yours,

HAROLD S. GENEEN

ITT EXHIBIT 1

ITT PRODUCTS AND SERVICES

ITT TELECOMMUNICATIONS OPERATING ACTIVITES

I. RECORD COMMUNICATIONS

(A) Direct Cable (international)
(B) Radio Telegraph (international)
(C) Radiotelephone (Puerto Rico, Argentina, Brazil, Chile, Peru, Virgin Islands)
(D) Press Wireless, Inc.
(E) Ship-to-Shore Radio Communication

II. TELEPHONE COMMUNICATIONS

(A) Puerto Rico
(B) Virgin Islands
(C) Chile
(D) Lima, Peru
(E) State of Parana, Brazil

(1965: Total ITT System Telecommunication Operating Revenues: $142,796,000)

ITT PRODUCTS AND SERVICES—NORTH AMERICA*

I. TELECOMMUNICATIONS EQUIPMENT & SYSTEMS

(A) Switching Systems:

(1) Automatic Central Office, Local
(2) Rural Exchanges
(3) Special Switching Equipment
(4) Manual Switchboards
(5) Automatic Toll Ticketing Equipment

(1965 Sales:

ITT Telecom Div.—Switching Dept	$9,340,000
ITT Caribbean Mfg. & Sales	4,334,000
ITT Export	871,000
Total North Am	$14,545,000)

(B) Private Exchanges:

(1) PABX–Telephone
(2) PAX–Telephone

(1965 Sales:

ITT Caribbean Mfg. & Sales	$901,000
Jamaica	65,000
Total North Am	$966,000)

(C) Audio Communications:

(1) Subscribers Telephone Sets
(2) Special Telephone Equipment
(3) Special Audio Systems

(1965 Sales:

ITT Telecom Div.–Apparatus Dept	$12,087,000
ITT Terryphone	626,000
ITT Caribbean Mfg. & Sales	1,440,000
Jamaica	80,000
ITT Export	219,000
Total North Am	$14,452,000)

(D) Transmission Systems:

(1) Non-Carrier Line Transmission Equipment
(2) Land Line Carrier-Line Equipment
(3) Radio Links
(4) Carrier Terminal Equipment Non-Integrated
(5) Other Products

(1965 Sales:

ITT Telecom-Transmission Dept	$7,048,000
ITT Canada	3,501,000
ITT Microwave	285,000
Total North Am	$10,834,000)

*Sales figures are for calendar year, 1965. North America operations include Canada, Puerto Rico and Jamaica. Not included are business operations sold or dissolved during 1965.

ITT PRODUCTS AND SERVICES—NORTH AMERICA—Continued

I. TELECOMMUNICATIONS EQUIPMENT & SYSTEMS—continued

(E) Broadcast, Point to Point and Mobile Radio Communications:

(1) Marine Communications Equipment

(1965 Sales:

Industrial Products Division	$202,000
ITT Mackay Marine	1,614,000
ITT Export	596,000
Total North Am	$2,412,000)

(F) Transmission and Central Processing Equipment for Data Communication:

(1965 Sales:

ITT Data Services	$5,258,000
ITT Canada	256,000
ITT Mackay Marine	1,035,000
Total North Am	$6,549,000)

(G) Telecommunications supplies & miscellaneous:

(1) Telecommunications Hardware & Supplies

(2) Telecommunications Systems Projects

(1965 Sales:

ITT Export	$5,402,000
Total North Am	$5,402,000)

II. MILITARY & SPACE EQUIPMENTS & SYSTEMS

(A) Military Communications:

(1965 Sales:

ITT Federal Laboratories	$47,482,000
Kellogg-Communications Systems Div	23,243,000
ITT Data Services	7,942,000
ITT Terryphone	371,000
Total North Am	$79,038,000)

(B) Military Avionics:

(1965 Sales:

ITT Federal Laboratories	$53,700,000
Total North Am	$53,700,000)

(C) Military Missiles & Space:

(1965 Sales:

ITT Federal Laboratories	$5,371,000
Total North Am	$5,371,000)

ITT PRODUCTS AND SERVICES—NORTH AMERICA—Continued

II. MILITARY & SPACE EQUIPMENT & SYSTEMS—continued

(D) Military Radar:
(1) Military Radar & ECM Equipments & Systems
(2) Military Navigational Aids
(3) Military Support Systems & Components
(4) Military Spare Parts & Miscellaneous
(1965 Sales:

ITT Gilfillan	$35,919,000
Total North Am	$35,919,000)

(E) Military Support Systems & Components:
(1965 Sales:

ITT Federal Laboratories	$11,066,000
Total North Am	$11,066,000)

(F) Military Spare Parts & Miscellaneous:
(1965 Sales:

ITT Federal Laboratories	$5,762,000
Total North Am	$5,762,000)

III. INDUSTRIAL AND COMMERCIAL EQUIPMENTS & SYSTEMS

(A) Instrumentation & Control Systems:
(1) General Purpose Remote-Control Indication and Telemetering Systems
(2) Electric and Electronic Test and Measurement Instruments
(3) Mechanical and Physical Test and Measurement Instruments
(4) Controlled Systems Accessories
(1965 Sales:

Industrial Products Div	$1,256,000
ITT Industrial Laboratories	190,000
Barton Instruments	11,764,000)
Total North Am	$13,210,000)

(B) Navigational Aids:
(1965 Sales:

ITT Canada	$1,223,000
Total North Am	$1,223,000)

ITT PRODUCTS AND SERVICES—NORTH AMERICA—Continued

III. INDUSTRIAL AND COMMERCIAL EQUIPMENTS & SYSTEMS—continued

(C) Controls-Industrial & Non-Industrial:

(1) Actuators & Valves
(2) Controllers, Transducers, Indicators & Recorders
(3) Electric Switchgear & Components
(4) Primary Flow Measuring Devices

(1965 Sales:

Bell & Gossett Hydronics	$3, 836, 000
ITT General Controls	30, 409, 000
Hammel-Dahl	5, 969, 000
Process Systems	24, 000
Total North Am	$40, 238, 000)

(D) Heat Transfer Equipment & Components:

(1) Heating, Air Conditioning & Refrigeration Equipment
(2) Heat Transfer Components

(1965 Sales:

ITT Reznor	$8, 841, 000
ITT Norman	2, 457, 000
Hayes Furnace	1, 489, 000
Bell & Gossett Hydronics	5, 890, 000
ITT Nesbitt	24, 212, 000
Total North Am	$42, 889, 000)

(E) Gas & Fluid Accessories:

(1) Air Compressors
(2) Pumps (excluding air service)
(3) Custom Fabricated Steel Tanks
(4) Misc. Products

(1965 Sales:

Bell & Gossett Hydronics	$22, 628, 000
Marlow Pump	7, 719, 000
Total North Am	$30, 347, 000)

(F) Miscellaneous Industrial Equipment:

(1) Power Equipment

(1965 Sales:

Industrial Products Division	$3, 234, 000
ITT Industrial Laboratories	3, 270, 000
Total North Am	$6, 504, 000)

ITT PRODUCTS AND SERVICES—NORTH AMERICA—Continued

IV. CABLE & WIRE PRODUCTS

(A) Communications Cable (except submarine):
(1) Exchange Area Cable & Wire.
(2) Exchange Cable & Wire.
(3) Telephone Cords.
(4) Miscellaneous.

(1965 Sales:	
ITT Caribbean Mfg. & Sales	$686,000
Total North Am	$686,000)

(B) Wires, Cables & Cords:
(1) General Purpose Wires, Cables, & Cords.
(2) Special Purpose Cables & Cords.
(3) Cord Sets.
(4) Fuses & Wiring Devices.
(5) Engineered Multiple Conductor Power & Control Cable and Cable Assemblies.
(6) Engineered Single Conductor Hook-Up Wire and Coaxial Cable.
(7) Engineered Electrical Insulation-Tubing & Molded Parts.

(1965 Sales:	
Royal Electric	$20,744,000
Suprenant	14,792,000
Royal Quebec	2,545,000
ITT Export	896,000
Total North Am	$38,977,000)

VI. COMPONENTS & MATERIALS

(A) Selenium Semiconductor Devices:

(1965 Sales:	
ITT Semiconductors	$1,906,000
Total North Am	$1,906,000)

(B) Semiconductor Devices (except selenium) and Semiconductor Integrated Circuits:
(1) Germanium Diodes
(2) Silicon Diodes
(3) Transistors
(4) Semiconductor Integrated Circuits
(5) Semiconductor Modules

(1965 Sales:	
ITT Semiconductors	$14,403,000
Total North Am	$14,403,000)

ITT PRODUCTS AND SERVICES—NORTH AMERICA—Continued

VI. COMPONENTS & MATERIALS—continued

(C) Electron Tubes:
(1) Power Tubes
(2) Microwave Tubes
(3) Gas Tubes
(4) Photoelectric & Secondary Emission Tubes
(1965 Sales:

Electron Tube	$6, 999, 000
Jennings	10, 394, 000
ITT Canada	355, 000
ITT Export	369, 000
Distributor Products Div	1, 059, 000
Total North Am	$19, 176, 000)

(D) Capacitors:
(1) Electrolytic Tantalum
(1965 Sales:

ITT Semiconductors	$1, 078, 000
Total North Am	$1, 078, 000)

(E) Electromechanical Components:
(1) Industrial Mechanical Keys & Switches
(2) Counters
(3) Electrical Connectors
(4) Miscellaneous
(1965 Sales:

ITT Cannon Electric	$54, 948, 000
Total North Am	$54, 948, 000)

(F) Miscellaneous Components:
(1) Modular Assemblies
(2) Electron Guns
(1965 Sales:

ITT Semiconductors	$792, 000
Total North Am	$792, 000)

VII. SERVICE ACTIVITIES

(A) Service & Maintenance of Telecommunications Equipment and Systems, Military and Space Services, Industrial & Commercial Equipment and Systems, Etc.:
(1965 Sales:

Federal Electric Corp	$91, 346, 000
ITT Henze Valve Service	1, 692, 000
ITT Canada	319, 000
ITT Mackay Marine	1, 155, 000
ITT Export	8, 503, 000
Total North Am	$103, 015, 000)

ITT PRODUCTS AND SERVICES—NORTH AMERICA—Continued

VII. SERVICE ACTIVITIES—continued

(B) Data Processing & Services:	
(1965 Sales:	
Data & Information System Div	$6,982,000
Total North Am	$6,982,000)
(C) Reproduction Services & Rentals:	
(1965 Sales:	
Documat	$504,000
Total North Am	$504,000)

VIII. OPERATING ACTIVITIES

(A) Communications Services (Mobile Radio-Telephones, Telephone Answering Service, Inter-Communication Services, Buglar Alarm Services, Etc.):	
(1965 Sales:	
ITT Mobile Telephone	$399,000
ITT Terryphone	2,424,000
Total North Am	$2,823,000)

IX. OTHER ACTIVITIES

(A) Rentals of Equipment & Systems	
(1965 Sales:	
Data & Information Systems Div	$1,375,000
Intelex Systems	1,993,000
ITT Mackay Marine	105,000
Total North Am	$3,473,000)
(B) Rentals of Autos & Trucks	
(1965 Sales:	
ITT Avis	$79,926,000
Total North Am	$79,926,000)
(C) Consumer Financial Services:	
(1) Mutual Funds	
(2) Life Insurance	
(3) Consumer Small Loans	
(4) Sales Contract Financing	
(1965 Report of ITT Finance Subsidiaries:	
Income	$47,607,000
Expenses	−43,619,000
Total	$3,988,000
Equity in net earnings of life insurance companies	+874,000
Net Income	$4,862,000)

ITT Products and Services—Foreign

I. TELECOMMUNICATIONS EQUIPMENT AND SYSTEMS

(A) Switching Systems:
- (1) Automatic Central Office, Local
- (2) Central Office Toll Dialing
- (3) Rural Exchanges
- (4) Special Switching Equipment
- (5) Manual Switchboards
- (6) Measuring & Test Equipment
- (7) Miscellaneous Equipment, Apparatus, Devices

(1965 Sales:

Europe	$252,308,000
Latin America	5,699,000
Far East	8,481,000
Total Foreign	$266,488,000)

(B) Private Exchanges:
- (1) PABX-Telephone
- (2) PAX-Telephone
- (3) Manual Switchboards
- (4) Special Private Exchange Equipment

(1965 Sales:

Europe	$65,961,000
Latin America	1,391,000
Far East	2,726,000
Total Foreign	$70,078,000)

(C) Audio Communications:
- (1) Subscribers Telephone Sets
- (2) Special Telephone Equipment
- (3) Special Audio Systems
- (4) Miscellaneous Products

(1965 Sales:

Europe	$40,245,000
Latin America	5,989,000
Far East	3,472,000
Total Foreign	$49,706,000)

(D) Data Peripheral Equipment:
- (1) Teleprinters
- (2) High Speed Printers
- (3) Scrambling Equipment
- (4) Perforated Tape and Card Equipment
- (5) Auxiliary Magnetic Storage Equipment
- (6) Facsimile & Other Ancillary Equipment

(1965 Sales:

Europe	$21,874,000
Latin America	16,000
Far East	907,000
Total Foreign	$22,797,000)

I. TELECOMMUNICATIONS EQUIPMENT AND SYSTEMS—continued

(E) Transmission Systems:
- (1) Non-Carrier Line Transmission Equipment
- (2) Land Line Carrier-Line Equipment
- (3) Radio Links
- (4) Submarine Cable Communications
- (5) Carrier Terminal Equipment Non-Integrated
- (6) Transmission Test & Measuring Equipment
- (7) Other Products

(1965 Sales:

Europe	$81,057,000
Latin America	1,013,000
Far East	8,170,000
Total Foreign	$90,240,000)

(F) Broadcast, Point to Point & Mobile Radio Communications:
- (1) Broadcast Equipment
- (2) LF, MF, and HF Point to Point Communication Equipment
- (3) Mobile Radio Communication Equipment
- (4) Aviation Radio Communications Equipment—Ground
- (5) Aviation Radio Communications Equipment—Airborne
- (6) Marine Communications Equipment
- (7) Other Products

(1965 Sales:

Europe	$51,298,000
Latin America	724,000
Far East	2,410,000
Total Foreign	$54,432,000)

(G) Transmission and Central Processing Equipment for Data Communication:
- (1) Telegraph Direct Switching Systems—Public
- (2) Telegraph Direct Switching Systems—Private
- (3) Store and Forward Systems
- (4) Electronic Data Processors
- (5) EDC Systems
- (6) Telegraph and Data Transmission Equipment
- (7) Integrated Data Systems Projects
- (8) Miscellaneous Interface Equipment

(1965 Sales:

Europe	$13,546,000
Total Foreign	$13,546,000)

ITT PRODUCTS AND SERVICES—FOREIGN—Continued

I. TELECOMMUNICATIONS EQUIPMENT AND SYSTEMS—continued

(H) Data Systems—Europe:
(1965 Sales:

Europe	$1,938,000
Total Foreign	$1,938,000)

(I) Telecommunication Supplies & Miscellaneous:
(1965 Sales:

Latin America	$1,000
Far East	860,000
Total Foreign	$861,000)

II. MILITARY AND SPACE EQUIPMENTS AND SYSTEMS

(A) Military/Space Systems—Miscellaneous:
(1965 Sales:

Europe	$17,417,000
Total Foreign	$17,417,000)

(B) Military Support Systems & Components:
(1965 Sales:

Europe	$6,000
Total Foreign	$6,000)

III. INDUSTRIAL AND COMMERCIAL EQUIPMENT & SYSTEMS

(A) Document & Material Handling Systems and General Office Equipment:
(1) Pneumatic Tube Systems
(2) Mail Handling Systems
(3) Document Handling Systems
(1965 Sales:

Europe	$4,985,000
Total Foreign	$4,985,000)

(B) Instrumentation & Control Systems:
(1) General Purpose Remote-Control Indication and Telemetering Systems
(2) Railway Control Systems
(3) Road Traffic Control Systems
(4) Alarm Systems
(5) Closed-Loop Control Systems
(6) Electric and Electronic Test and Measurement Instruments
(7) Mechanical and Physical Test and Measurement Instruments
(1965 Sales:

Europe	$20,840,000
Far East	269,000
Total Foreign	$21,109,000)

ITT PRODUCTS AND SERVICES—FOREIGN—Continued

III. INDUSTRIAL AND COMMERCIAL EQUIPMENT & SYSTEMS—continued

(C) Navigational Aids:
(1) Air Navigation and Traffic Control
(2) Marine Navigation, Radar and Direction Finding
(3) Miscellaneous Products
(1965 Sales:

Europe	$23, 237, 000
Latin America	93, 000
Total Foreign	$23, 330, 000)

(D) Controls—Industrial & Non-Industrial:
(1965 Sales:

Europe	$7, 617, 000
Total Foreign	$7, 617, 000)

(E) Heat Transfer Equipment & Components:
(1) Heating, Air Conditioning and Refrigeration Equipment
(1965 Sales:

Europe	$2, 199, 000
Total Foreign	$2, 199, 000)

(F) Gas & Fluid Accessories:
(1) Pumps (excluding air service)
(1965 Sales:

Europe	$17, 150, 000
Total Foreign	$17, 150, 000)

(G) Machines, Machine Tools & Miscellaneous Tools:
(1965 Sales:

Europe	$1, 492, 000
Total Foreign	$1, 492, 000)

(H) Industrial Equipment—Miscellaneous:
(1) Specialty Industrial Electronic Measurement and Test Equipment
(2) Power Equipment
(3) Miscellaneous Equipment
(1965 Sales:

Europe	$6, 820, 000
Latin America	1, 032, 000
Far East	186, 000
Total Foreign	$8, 038, 000)

ITT PRODUCTS AND SERVICES—FOREIGN—Continued

IV. CONSUMER PRODUCTS

(A) Consumer Electronics:
- (1) Radio Receivers
- (2) Television Receivers
- (3) Phonographs & Record Players
- (4) Combination Units
- (5) Kits
- (6) Chassis

(1965 Sales:

Europe	$135,509,000
Latin America	9,200,000
Total Foreign	$144,709,000)

(B) Consumer Appliances:
- (1) Refrigerators
- (2) Freezers
- (3) Miscellaneous Products

(1965 Sales:

Europe	$13,790,000
Total Foreign	$13,790,000)

(C) Consumer Rentals:
- (1) Television Rentals
- (2) Radio Rentals
- (3) Refrigerator & Freezer Rentals

(1965 Sales:

Europe	$9,806,000
Total Foreign	$9,806,000)

V. CABLE & WIRE PRODUCTS

(A) Communications Cable (except submarine):
- (1) Transmission Cable
- (2) Exchange Area Cable and Wire
- (3) Exchange Cable and Wire
- (4) Interphone Cable
- (5) Telephone Cords
- (6) Special Cables
- (7) Miscellaneous Products

(1965 Sales:

Europe	$74,819,000
Latin America	1,744,000
Total Foreign	$76,563,000)

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ITT PRODUCTS AND SERVICES—FOREIGN—Continued

V. CABLE & WIRE PRODUCTS—continued

(B) Submarine Cable—Communication Type:
(1) Submarine Cable
(2) Miscellaneous
(1965 Sales:

Europe	$5,888,000
Total Foreign	$5,888,000)

(C) Power Cable:
(1) Main Power Cable
(2) Control and Power Board Cable
(3) Industrial & Domestic Cable
(4) Miscellaneous Products
(1965 Sales:

Europe	$13,570,000
Total Foreign	$13,570,000)

(D) Wires, Cables & Cords:
(1) Miscellaneous & Specialty Wires
(2) Engineered Multiple Conductor Power and Control Cable and Cable Assemblies
(3) Engineered Single Conductor Hook-Up Wire and Coaxial Cable
(4) Miscellaneous Products
(1965 Sales:

Europe	$4,668,000
Total Foreign	$4,668,000)

VI. COMPONENTS & MATERIALS

(A) Selenium Semiconductor Devices:
(1) Selenium Devices
(2) Semiconductor Rectifiers (other than Selenium)
(3) Controlled Rectifiers
(4) Other Semiconductor Devices for Power Handling Applications
(1965 Sales:

Europe	$11,816,000
Far East	540,000
Total Foreign	$12,356,000)

ITT PRODUCTS AND SERVICES—FOREIGN—Continued

VI. COMPONENTS & MATERIALS—continued

(B) Other Semiconductor Devices and Semiconductor Integrated Circuits:
- (1) Germanium Diodes
- (2) Silicon Diodes
- (3) Other Diodes
- (4) Transistors
- (5) Semiconductor Integrated Circuits
- (6) Semiconductor Modules

(1965 Sales:

Europe	$14,822,000
Far East	296,000
Total Foreign	$15,118,000)

(C) Electron Tubes:
- (1) Power Tubes
- (2) Microwave Tubes
- (3) Gas Tubes
- (4) Photoelectric and Secondary Emission Tubes
- (5) Other Industrial Types
- (6) Cathode Ray Tubes
- (7) Miscellaneous

(1965 Sales:

Europe	$28,389,000
Latin America	1,991,000
Far East	538,000
Total Foreign	$30,918,000)

(D) Capacitors:
- (1) Paper
- (2) Mica
- (3) Plastic Film
- (4) Plastic-Coated Foil
- (5) Electrolytic Aluminum
- (6) Electrolytic Tantalum
- (7) Miscellaneous

(1965 Sales:

Europe	$17,391,000
Latin America	297,000
Total Foreign	$17,688,000)

ITT PRODUCTS AND SERVICES—FOREIGN—Continued

VI. COMPONENTS & MATERIALS—continued

(E) Passive Components and Components Materials:
(1) Resistors
(2) Piezo-Electric (Crystal) Elements
(3) Filters
(4) Inductive Components
(5) Miscellaneous
(1965 Sales:

Europe	$11,304,000
Far East	265,000
Total Foreign	$11,569,000)

(F) Electromechanical Components:
(1) Switches-Telephone Types
(2) Industrial Mechanical Keys & Switches
(3) Counters
(4) Jacks, Plugs
(5) Motors
(6) Racks
(7) Electrical Connectors
(8) Other Electromechanical Devices
(1965 Sales:

Europe	$11,795,000
Total Foreign	$11,795,000)

(G) Subassemblies:
(1) Tuners
(2) Fly-Back Transformers & Deflection Yokes
(3) Loudspeakers
(4) Microphones
(5) Miscellaneous
(1965 Sales:

Europe	$5,335,000
Latin America	1,173,000
Total Foreign	$6,508,000)

(H) Relays & Electrically Operated Switches & Parts:
(1) Relays
(2) Solenoids, Component Type
(1965 Sales:

Europe	$13,155,000
Total Foreign	$13,155,000)

ITT PRODUCTS AND SERVICES—FOREIGN—Continued

VI. COMPONENTS & MATERIALS—continued

(I) Components—Miscellaneous:
  (1) Modular Assemblies
  (2) Electron Guns
  (3) Plastic Materials, Parts, Components and Related Products
  (1965 Sales:

Europe	$4,143,000
Total Foreign	$4,143,000)

VII. SERVICE ACTIVITIES

(A) Service & Maintenance of Telecommunications Equipment and Systems, Military and Space Services, Industrial and Commercial Equipment and Systems, Etc.:
  (1965 Sales:

Europe	$8,742,000
Latin America	5,392,000
Far East	419,000
Total Foreign	$14,553,000)

(B) Data Processing & Services:
  (1965 Sales:

Europe	$1,695,000
Total Foreign	$1,695,000)

VIII. OTHER ACTIVITIES

(A) Rentals of Equipment & Systems:
  (1965 Sales:

Europe	$2,230,000
Latin America	172,000
Far East	248,000
Total Foreign	$2,650,000)

(B) Miscellaneous Product Lines:
  (1965 Sales:

Europe	$1,671,000
Latin America	2,249,000
Far East	399,000
Total Foreign	$4,319,000)

ITT Exhibit 2

ITT and Subsidiaries

PURCHASES FROM ABC, 1964–1966

1964, NONE

1965

Spot Television Ads:	
On ABC owned stations	$62,400

1966

Spot Television Ads:	
On ABC owned stations	$185,148 (est.)

ITT Exhibit 3

ITT and Subsidiaries, United States Television Advertising Expense,* 1965–1966

1965

Avis	$498,845
Hamilton Fund	24,290
Total 1965	**$523,135

1966

Avis:	
Jan.–Aug., 1966 (actual)	$993,879
Sept.–Dec., 1966 (est.)	596,470
Alexander Hamilton Life Ins.:	
Jan.–Aug., 1966 (actual)	20,532
Sept.–Dec., 1966 (est.)	----------
Hamilton Fund:	
Jan.–Aug., 1966 (actual)	39,740
Sept.–Dec., 1966 (est.)	21,260
Total 1966 (est.)	***$1,671,881

*(Note: No radio advertising was placed. All TV advertising consistse of local spot announcements. No network advertising has been placed.)

**(Of this amount, $62,400 was advertising on ABC owned stations.)

***(Of this amount, approximately $185,148 will be advertising on ABC owned stations.)

ITT Exhibit 4

ITT and Subsidiaries Media Advertising Expense, 1965

North America	*$6,250,000
Europe	4,247,000
Latin America	822,000
Far East	147,000
Total	$11,466,000

*United States media advertising expense totalled $6,199,000.

ITT Exhibit 5

Executive Turnover in ITT and Subsidiaries

The worldwide business affairs of ITT are guided by more than 1,300 executives, most of whom are career men in the ITT System. Over 50 per cent of the ITT executives have ten years or more of service, and there are a great many with thirty or more years of service.

During the first six months of 1966, thirty-nine executives left ITT. Of these, six retired, two died, and thirty-one separated for other reasons. This represents a current annual controllable turnover rate of less than 5 per cent. Controllable turnover was approximately 6.7 per cent for the year 1965, and approximately 5.8 per cent for the year 1964.

A minimum of management turnover has occurred in companies recently acquired by ITT. Top management turnover in the larger companies acquired by ITT in the United States since 1961 has been as follows:

(a) 73 per cent of the chief executives are still with ITT, 15 per cent retired, and 12 per cent separated for other reasons; and,

(b) 80 per cent of the second-level key executives are still with ITT, 3 per cent retired, and 17 per cent separated for other reasons.

ITT Exhibit 6

Products or services purchased or leased from I.T.T.

1963

Type of product or service obtained	Amount	ITT subsidiary	ABC subsidiary	Percentage of total of such items purchased by ABC
Car Rental	$1,910	Avis Rent-A-Car System, Inc.	KGO-TV & AM, San Francisco.	
" "	6,638	" " " " "	ABC, Inc., New York.	
" "	456	" " " " "	WBKB-TV, Chicago.	
" "	647	" " " " "	KABC-TV & AM, Hollywood.	
" "	202	" " " " "	ABC Films, Inc., New York.	

EXHIBIT 6

Products or services purchased or leased from I.T.T.—Continued

Type of product or service obtained	Amount	ITT subsidiary	ABC subsidiary	Percentage of total of such items purchased by ABC
Car Rental—Con.	$140	Avis Rent-A-Car System, Inc.	Paramount Gulf Theatres, Inc. New Orleans, Louisiana.	
" "	390	" " " " "	The Prairie Farmer Publishing Company, Chicago, Illinois.	
" "	96	" " " " "	Arizona Paramount Corporation, Phoenix, Arizona.	Not Available
Connectors	1,223	ITT Cannon Electric Division.	KGO-TV & AM, San Francisco.	
"	10,225	" " " "	KABC-TV & AM, Hollywood.	
"	2,876	" " " "	ABC, Inc., New York	
Overseas Cablegrams.	14,558	Press-Wireless, Inc.	ABC, Inc., New York.	
" "	30,165	ITT World Communications, Inc.	ABC, Inc., New York.	
Air Conditioning	3,784	ITT Bell & Gossett Hydronics Division.	Interstate Circuit, Inc. Dallas, Texas.	
Monitoring Service European Continent.	10,620	Press-Wireless, Inc.	ABC, Inc., New York.	
PBX Switchboard (Cordless) and Accessories.	4,785	ITT Kellogg Communications Systems Division.	ABC, Inc., New York.	
		[illegible]		
Car Rental	$7,118	Avis Rent-A-Car System, Inc.	KGO-TV & AM, San Francisco.	
" "	16,069	" " " " "	ABC, Inc., New York.	
" "	2,191	" " " " "	WBKB-TV, Chicago.	
" "	3,161	" " " " "	KABC-TV & AM, Hollywood.	
" "	198	" " " " "	ABC Films, Inc., New York.	
" "	15	" " " " "	Paramount Gulf Theatres, Inc., New Orleans, Louisiana.	22
" "	34	" " " " "	Tri-States Theatre Corporation, Des Moines, Iowa.	
" "	302	" " " " "	The Prairie Farmer Publishing Company, Chicago, Illinois.	

EXHIBIT 6

Products or services purchased or leased from I.T.T.—Continued

Type of product or service obtained	Amount	ITT subsidiary	ABC subsidiary	Percentage of total of such items purchased by ABC
Car Rental—Con.	$13	Avis Rent-A-Car System, Inc.	Intermountain Theatres, Inc., Salt Lake City, Utah.	
Connectors	1,593	ITT Cannon Electric Division.	KGO-TV & AM, San Francisco.	
"	3,312	" " " "	KABC-TV & AM, Hollywood.	63
"	7,034	" " " "	ABC, Inc., New York.	
Overseas Cablegrams.	10,623	Press-Wireless, Inc.	ABC, Inc., New York.	29
" "	18,483	ITT World Communications, Inc.	ABC, Inc., New York.	
Monitoring Service European Continent.	7,832	Press-Wireless, Inc.	ABC, Inc., New York	100
FIRST NINE MONTHS 1965				
Car Rental	$3,368	Avis Rent-A-Car System, Inc.	KGO-TV & AM, San Francisco.	
" "	18,595	" " " " "	ABC, Inc., New York.	
" "	5,410	" " " " "	WBKB-TV, Chicago.	
" "	79	" " " " "	KQV, Inc., Pittsburgh.	25
" "	752	" " " " "	KABC-TV & AM, Hollywood.	
" "	189	" " " " "	ABC Films, Inc., New York.	
" "	89	National Auto Renting Co., Inc.	WBKB-TV, Chicago.	
Connectors	812	ITT Cannon Electric Division.	KGO-TV & AM, San Francisco.	
"	11,949	" " " "	KABC-TV & AM, Hollywood.	80
"	4,201	" " " "	ABC, Inc., New York.	
Cable	4,351	ITT Cannon Electric Division.	ABC, Inc., New York.	8
Air Conditioning	139	ITT Bell & Gossett Hydronics Division.	ABC, Inc., New York.	.2
Overseas Cablegrams.	9,385	Press-Wireless, Inc.	ABC, Inc., New York.	31
" "	24,016	ITT World Communications, Inc.	ABC, Inc., New York.	
Monitoring Service European Continent.	6,889	Press-Wireless, Inc.	ABC, Inc., New York.	100

NOTE.—ABC has since contracted with Federal Electric Corporation, an ITT subsidiary, to engineer, furnish and install technical facilities in an ABC television studio.

ITT EXHIBIT 7

Products and services purchased or leased by ABC which are of the same or similar type of those manufactured or furnished by I.T.T.

Product or service	1964	First nine months, 1965	Major suppliers
Intercom Equipment (Purchases).	$14,335	$7,543	Radio Corporation of America, Altec Sound Service, Rauland Borg Corp.
Intercom Equipment (Rental).	15,612	12,187	New York Telephone Company, Dictaphone Corporation (Data-Fax), Comptometer Corporation (Electro-Writer).
Connectors	19,042	21,425	Amphenol-Borg Electronics, ITT Cannon Electric Division, Harvey Radio Company, Inc., Terminal Hudson Electronics, Incorporated, Hollywood Radio Electric, Sunset Electronics, Yale Radio Electric, Milo Electronics Corp.
Wire and Cable	34,531	52,198	Boston Insulated Wire & Cable Company, Belden Manufacturing Company, Manor Electric Supply Corporation, Amphenol-Borg Electronics, ITT Cannon Electric Division, Harvey Radio Company, Inc., Newark Electric Co., Valiant Industries, L & S Manufacturing.
Air Conditioning Equipment	136,028	73,979	Trane Co., Carrier Air Conditioning, Kroeschell Engineering Company, Matthews Engineering, Governair Corp., Sherwood Air Conditioning & Refrigeration, Clark & Co., Systems Engineering Co, Welco Sales.
[56] Heating and Ventilating Equipment.	122,649	22,857	Burnomatic Industrial Gas Burner Co., Kroeschell Engineering Company, Boiler Equipment Company, Systems Engineering Co., Air-Con. Engineering Co., Matthews Engineering Co., E. A. Lewis.
Auto Rental	129,142	114,941	Hertz System, Inc., Avis Rent-A-Car System, Inc., Budget Rent-A-Car N.Y.C., Inc., Olins Rent-A-Car System, Inc., National Car Rental System, Inc., Empire Lincoln Mercury, Inc.
Office Machines	25,155	45,418	IBM, Friden, Inc., Monroe International, Inc., Royal McBee Corporation, Smith Corona Marchant Corporation, Olivetti-Underwood Corporation, National Cash Register Company.
Overseas Cablegrams	102,105	107,202	Radio Corporation of America, Western Union International, ITT World Communications, Inc., Press-Wireless, Inc.
Monitoring Service European Continent.	7,832	6,889	Press-Wireless, Inc.

ITT Exhibit 8

Products and Services Manufactured or Supplied Which Are of the Same or Similar Type to Those Manufactured or Supplied by I.T.T.

ABC has never manufactured or supplied any products or services of the same or similar type to those manufactured or supplied by I.T.T.

ITT Exhibit 9

Equipment, Apparatus, System or Devices Manufactured by ABC for Use in its Business

ABC does not manufacture any equipment, apparatus, system or devices for use in its business.

EXHIBIT 10

Types and principal suppliers of equipment, apparatus and machinery used by ABC

Type of equipment	Purpose for which used	Principal suppliers
(I) Operation of Movie Theatres:		
Projection Equipment	To project motion pictures on screens	Century Projection Corp., New York, N.Y. Strong Electric Co., Toledo, Ohio. Kneisley Electric Co., Toledo, Ohio. Bausch & Lomb, Inc., Rochester, N.Y. Kollmorgan Optical Corp., North Hampton, Mass. C. S. Ashcraft Mfg. Co., Long Island City, N.Y. National Theatre Supply Co., New York, N.Y. North America Philips Co., New York, N.Y. General Precision Labs., Pleasantville, N.Y.
Sound Equipment	To amplify sound track of motion picture films	Century Projectors, Inc., New York, N.Y. Altec Lansing Corp., Anaheim, California. Radio Corporation of America, New York, N.Y. Esprad, Inc., Toledo, Ohio.
Stage Equipment	To operate screens, stage draperies and stage lighting	Drive-In Theatres Mfg. Co., New York, N.Y. Technicote, Inc., Brooklyn, N.Y. Automatic Devices Co., Syracuse, N.Y.
Seating Equipment	Theatre seats	National Theatre Supply Co., New York, N.Y. Heywood-Wakefield Co., Menominee, Michigan. Massey Seating Co., Inc., Nashville, Tenn. American Desk Mfg. Co., Temple, Texas. Griggs Equipment Co., Belton, Texas.
Ticket Issuance Equipment	To issue tickets to patrons	Consolidated Ticket Register Corp., New York, N.Y. General Register Corp., New York, N.Y.
Office Machines	Electric typewriter, adding machine, calculator and dictating machines.	Royal McBee Corp., New York, N.Y. National Cash Register, New York, N.Y. International Business Machine Corp., New York, N.Y. Olivetti-Underwood, Inc., New York, N.Y. Smith Corona Marchant, Inc., New York, N.Y. Burroughs Corp., New York, N.Y. Monroe International, New York, N.Y.

Candy and Drink Vending Equipment	Counters and automatic dispensing machines used in sale of confections and beverages to patrons.	Multiplex Faucet Co., St. Louis, Missouri. Selmix Dispensers, Inc., Long Island City, N.Y. Server Sales, Milwaukee, Wisconsin. Jet Spray Corp., Waltham, Mass.
Air Conditioning		Trane Company, La Crosse, Wisconsin. Carrier Air Conditioning Co., New York, N.Y.
Heating, Ventilation		Trane Company, La Crosse, Wisconsin. Boiler and Equipment Co., New York, New York.
(ii) Manufacturing and Production of Phonograph Records:		
Pressing Equipment	Manufacture phonograph records	Hydraulic Press Corporation of America, N.Y., N.Y.
Packaging Equipment	Packaging of records	W. R. Grace & Co., Ducan, South Carolina.
Heating and Air Conditioning	Cooling and Heating	Boiler Equipment Co., New York, N.Y.
Office Machines	Typewriters, adding machines	International Business Machine Corp., N.Y., N.Y. Royal McBee Corporation, New York, N.Y.
Sound Equipment	Recording of sound on playing records	Bell Sound, Inc., New York, N.Y.
(iii) Operation of television and Radio Stations, Studios and Networks:		
Audio Equipment	To provide high quality audio record and play back capability within broadcast studios or remote field broadcast operations.	Radio Corporation of America, New York, N.Y. Allied Electronics, Chicago, Illinois. General Electric Co., New York, New York. Ampex Corp., Hackensack, New Jersey. Electrovoice, Inc., New York, N.Y. Automatic Tape Control, Bloomington, Illinois.
TV Cameras—Accessories	For the conversion of inanimate and live images into electrical signals for television transmission.	Albion Optical, Los Angeles, Cal. Radio Corporation of America, New York, N.Y. Houston-Fearless, Los Angeles, Cal. Bendix Co., Detroit, Michigan. Sylvania, Inc., New York, N.Y.
TV Film Cameras	To convert optical film images into electrical signals for television transmission.	Radio Corporation of America, New York, N.Y. General Electric Co., New York, N.Y. Sylvania, Inc., New York, N.Y.
TV Video Tape Recorders	To record television signals on magnetic tape in black and white or color and play back of previously recorded material.	Radio Corporation of America, New York, N.Y. Ampex Corp., Los Angeles, Cal.

Types and principal suppliers of equipment, apparatus and machinery used by ABC—Continued

Type of equipment	Purpose for which used	Principal suppliers
Transmitting Equipment	Equipment that converts aural and video electrical signals to Radio Frequency Energy which are then radiated in free space to be picked up by selective receivers in the hands of the public.	General Electric Co., New York, N.Y. Radio Corporation of America, New York, N.Y. Amperex Electronic Corp., Hicksville, N.Y. Allied Electronics, Chicago, Illinois. Gates Radio, Quincy, Illinois. Eimac, Inc., New York, N.Y. Hewlett-Packard, Inc., New York, N.Y. General Radio, Concord, Mass.
Terminal Equipment	For the transmission and monitoring of audio and video signals within a broadcast facility.	Radio Corporation of America, New York, N.Y. Telemet Corp., Amityville, N.Y. Miratel, St. Paul, Minnesota. Riker Industries, Huntington, N.Y. General Electric Co., New York, N.Y. Solari, Inc., Elmhurst, New York. Whitaker, Inc., North, Cal. Conrac, Inc., Glendora, Cal.
News Film Cameras and Accessories	To photograph objects and events on film which, after processing, can be played back over a television system.	Camera Mart, New York, N.Y. General Electric Co., New York, N.Y. Eastman Kodak, Inc., New York, N.Y. Radio Corporation of America, New York, N.Y. Bell & Howell, Inc., Chicago, Illinois.
Film Editing and Screening Equipment	Used in the assembly and review of filmed material which will subsequently be used for television broadcast.	Radio Corporation of America, New York, N.Y. Camera Mart, New York, N.Y. Beckman & Whitley Instruments, Mt. View, Cal. Bell & Howell, Inc., Chicago, Illinois. Eastman Kodak, Inc., New York, N.Y.
RF Communications	This equipment provides either aural or visual communications. To provide instant and reliable communications for remote broadcast applications.	Motorola, Inc., Fairlawn, New Jersey. General Electric Co., New York, N.Y. Radio Corporation of America, New York, N.Y. Microwave Associates, Inc., Burlington, Mass. Radio Frequency Labs., Boonton, New Jersey.

Production Lighting Equipment	To provide required illumination of objects being photographed or televised.	Kliegel Brothers, Inc., New York, N.Y. General Electric Co., New York, N.Y. Solari, Inc., Elmhurst, New York. Marine View Electronics, Long Island City, N.Y.
TV Receivers	For the monitoring or screening of television programs	Sony, Inc., New York, N.Y. Radio Corporation of America, New York, N.Y. General Electric Co., New York, N.Y. Zenith, Inc., New York, N.Y.
Test Equipment	For the proper maintenance and repair of electrical broadcast equipment.	Tektronix, Inc., Roslyn Heights, L.I., N.Y. Radio Corporation of America, New York, N.Y. Newark Electronics, Chicago, Illinois. Kennedy Webster Electric Co., Chicago, Illinois. Riker Industries, Inc., Huntington, N.Y.
Mobile Units	Provide a mobile Production/Engineering facility which has sufficient equipment installed as is necessary to originate a television or radio production from remote locations where studio facilities are not available.	Video Tape Unlimited, New York, N.Y. TeleTape Productions, Chicago, Illinois. Metropolitan Broadcasting, Washington, D.C.
Rack Equipment	Provides a means by which equipment can be orderly arranged according to its particular usage.	Radio Corporation of America, New York, N.Y. Vitro Electronics, Silver Spring, Maryland. Camera Mart, New York, N.Y.
Hand Tools	Items used for general maintenance and repair of equipment.	Black & Decker, New York, N.Y. Rissi Electronics Supply, Detroit, Michigan. Graybar Electric, New York, N.Y. Newark Ferguson, Chicago, Illinois.
Air Conditioning	To maintain broadcast studios and offices at an ambient temperature which allows both people and equipment to operate efficiently.	Philco, Inc., New York, N.Y. Manor Electronics, Brooklyn, N.Y. Right Electric Co., New York, N.Y. Kroeschell Engineering, Chicago, Illinois.
Cable General	To provide the interconnection between various electrical system components so that they operate as an integrated whole.	General Electric Co., New York, N.Y. Newark Electric, Chicago, Illinois. Radio Corporation of America, New York, N.Y. Belden Mfg. Co., Chicago, Illinois. Rissi Electronics Supply, Detroit, Michigan.

Types and principal suppliers of equipment, apparatus and machinery used by ABC—Continued

Type of equipment	Purpose for which used	Principal suppliers
Replacement Parts	Small electrical components which are used to replace defective elements during the operating lifetime of broadcast equipment.	Radio Corporation of America, New York, N.Y. General Electric Co., New York, N.Y. Newark Electric, Chicago, Illinois. Visual Electronics, New York, N.Y. Automatic Tape Control, Bloomington, Illinois. Milo Electronics, New York, N.Y. Riker Industries, Huntington, N.Y. Manor Electric, Brooklyn, N.Y.
Office Machines	Typewriters, adding machines, calculators and dictating machines.	International Business Machine Corp., N.Y., N.Y. Remington Rand Corp., New York, N.Y. Friden & Co., Inc., New York, N.Y. Royal McBee Corp., New York, N.Y. Monroe Calculating Machines, New York, N.Y. Victor Comptometer, Los Angeles, Cal.
(iv) Other Phases:		
(A) Outdoor Attractions (Silver Springs and Weeki Wachee, Florida):		
Projector, 16mm	To run motion picture film for special purposes	Radio Corporation of America, Camden, New Jersey.
Electronics—Microphones	For sound amplification	Thurow Electronics, Ocala, Florida.
Air Conditioning Equipment	Cooling and heating	McMillian Heat Pumps, Inc., Jacksonville, Florida.
Office Machines	Typewriters, adding machines	International Business Machine Corp., Jacksonville. Olivetti-Underwood, Inc., Jacksonville, Fla.
Aluminum Boats	River scenic cruise rides	Delhi Mfg. Co., Delhi, Louisiana.
Edison Alkaline Batteries	Power supply for electric motors	Exide Industrial, New York, N.Y.
Electric Motors	Boat motors	Elwell, Parke Co., Cleveland, Ohio.
Vending Machines	Automatic drink dispensers	Vendo Co., St. Louis, Missouri.
(B) Publishing (Prairie Farmer Publishing Company and subsidiaries):		
Office Machines	Typewriters, adding machines, calculators	Royal McBee Corp., Chicago, Illinois. Monroe Calculating Machine Co., Chicago, Illinois. Olivetti-Underwood Corp., Chicago, Illinois. Friden & Co., Inc., Chicago, Illinois.

Stitcher, Trimmer and Mailing Machine.	Bindery and mailing of publications	T. W. & C. D. Sheridan Co., New York, N.Y.
Litho Products	Camera and Dyeril plate making	Chicago Litho Products Co., Chicago, Illinois.
Fork Truck	Handle material in shop	Clark Equipment Co., Rosemont, Illinois.
Automatic Wire Machine	Tie publications for mailing	A. J. Genard Co., Chicago, Illinois.
(C) Ice Shows (Holiday on Ice):		
Lighting Equipment	Lighting	G & G Metals Fabricating, Venice, Florida.
		Uchtman & Co., Amsterdam.
		General Electric Co., New York, N.Y.
Sound Equipment	Provide audio amplification	Lang Electronics, Inc., New York, N.Y.
		Magna-Tech, New York, N.Y.
Refrigeration Equipment	Cooling and formation of ice	Kottler Metal Products, Inc., Cleveland, Ohio.
		Liberty Welding & Iron Works, New Orleans, La.
Interior Decorating Equipment (Curtains, etc.).	Interior Decoration	Knoxville Senic Studios, Knoxville, Tennessee.
		Gladstone Fabrics, New York, N.Y.
Projection Equipment	Screening film projecting	Background Engineers, Los Angeles, Cal.
		Glenn Holse, Hollywood, Cal.

ITT Exhibit 11

Principal suppliers and dollar amount of designated equipment purchased by ABC

1964		First nine months 1965	
Principal suppliers	Amount purchased	Principal suppliers	Amount purchased
(i) Electrical and electronic equipment:			
Radio Corporation of America	$1,518,019	Radio Corporation of America	$1,063,694
Solari Corporation	174,151	Ampex Incorporated	1,012,181
General Electric Corporation	143,509	General Electric Corporation	617,834
Camera Mart Incorporated	122,809	International Nuclear Corporation.	317,331
Century Projector Company	119,903	Riker Industries	262,824
Microwave Associates, Inc	114,189	Beckman & Whitely Instruments.	209,040
Radio Product Sales Corporation	98,517	Norelco Incorporated	143,884
Tele-Tape Productions Incorporated.	98,352	Century Projector Corp	137,922
Milo Electronics Corp	96,632	The Grass Valley Group	118,078
Marine View Electronics	93,288	Milo Electronics Corp	101,506
All Suppliers	5,094,932	All Suppliers	6,022,149
(ii) Telecommunications equipment: None.	None	None	None
(iii) Heating and Ventilating Equipment:			
Birnomatic Industrial Gas Burner.	27,178	E. A. Lewis	9,066
		Matthews Engineering	4,955
Boiler Equipment Company	38,914	Systems Engineering	3,744
E. A. Lewis	10,565	American Standard Boiler Co	2,474
Systems Engineering	6,011	Mechanical Heat & Cold	2,007
Kroeschell Engineering	4,800		
Air-Con. Engineering Company	3,310		
All Suppliers	122,649	All Suppliers	22,875
[67]			
(iv) Air Conditioning and Refrigeration Equipment:			
Trane Co	43,240	Governair Corp	18,375
Carrier Air Conditioning	21,799	Matthews Engineering	17,464
Systems Engineering	19,127	Sherwood Air Conditioning & Refrigeration Co.	13,352
Kroeschell Engineering Company	12,860		
Clark & Co	8,095	Welco Sales	9,030
Kottler Metal Products Engineering.	7,300	Right Electric Company	3,740
		Dallas Mechanical Equipment Co.	2,258
Dallas Mechanical Equipment Co.	6,314		
		Conditioned Air	964
Welco Sales	4,956	ITT Bell and Gossett Hydronic Division.	138
Liberty Welding & Iron Works	2,458		
Conditioned Air	971		
All Suppliers	136,027	All Suppliers	73,840
(v) Industrial Controls:			
Johnson Service Company	245	Johnson Service Company	171
All Suppliers	245	All Suppliers	171

Principal suppliers and dollar amount of designated equipment purchased by ABC—Continued

1964		First nine months 1965	
Principal suppliers	Amount purchased	Principal suppliers	Amount purchased
(vi) Cable and Wire Products:			
Belden Cable Co	$11,584	Belden Cable Co	$10,552
Harvey Radio Company, Inc	7,987	Manor Electric Supply Corporation.	10,512
Valiant Industries Incorporated	6,922		
Midway Radio	4,637	Boston Insulated Wire & Cable Company.	9,585
Progress Electric Co	3,100		
Manor Electric Supply Corporation.	3,083	Valiant Industries Incorporated	6,091
		Amphenol-Borg Electronics	5,986
General Electric Co	2,062	ITT Cannon Electric Division	4,351
Electric Supply Co	1,914	L. & S. Manufacturing	4,108
Newark Electric Co	1,397	Harvey Radio Company, Inc	2,600
Allied Electronics	828	Newark Electric Co	1,758
		Electric Supply Co	1,118
All Suppliers	63,077	All Suppliers	94,660

[Excerpt from ITT Exhibit 12(a), R–2]

Statement of Dr. Raymond J. Saulnier, Professor of Economics, Barnard College, Columbia University

It is interesting to note that the second largest grouping of sales in any one product line—telephone equipment in West Germany (SEL Stuttgart)—represents only 6.7 percent of total ITT sales. What this diversification of activity means is that no grouping of sales in any country outside the United States, let alone in any given product line, would be at all close to what would be represented by ABC's revenues, which in 1965 came to $477 million (broadcasting $362 million; theatres $81 million; other sources $34 million—*i.e.*, almost 20% of the combined revenues.

It goes without saying that, as they stand, *Tables 1* and *2* give only a limited picture of the actual degree of diversification that marks ITT activities. It would be possible to increase greatly the separate product lines shown, as well as the number of separate subsidiary companies. Even so, there is no instance of sales in a single country outside the United States, let alone

sales in any one product line in any one country outside the United States, that exceeds 15 percent of ITT total sales.

[Excerpts from ABC–ITT Proposed Findings]

[4595] 5.5 Merger with ABC will provide an incentive to ITT to engage in research and development which will advance ABC's technology and in which it would not otherwise engage (Geneen 513–4, 522–3, 584; Cookson 2836, 2847, 2862, 2872–3). In this regard ITT is resolved as an overall objective, to offer to ABC technological support which will make its facilities comparable with those of NBC and CBS, and thus make ABC more competitive with them (Geneen 1982–4, 2044; Cookson 2861, 2862–3; Geneen letter of July 25, 1966, p. 2).

5.6. At ABC's request, ITT has recruited and made available to ABC for general technical advice and assistance its Director of TV Systems Planning, Mr. Benham (AR 57). Among other projects, Mr. Benham has given advice with regard to a hand-held color camera and is working on development of a color TV to film converter employing a laser system. (Barnathan 2322; Siegel 2403–6; Benham 2714–8, 2721, 2726–8, 2737–8, 2747–8, 2779–80, 2791; Cookson 2833, 2855, 2865, AR 42; J 256, J 262, J 300, J 324) ITT anticipates that it can give considerable assistance to ABC in the automation of its various systems, another area in which ABC is disadvantaged compared with its network competitors (Cookson 2862; see Barnathan 2314–15). ITT anticipates that it can help ABC effect savings in its present expenditures on long-lines communications (Cookson 2862). Additional activities which ITT contemplates in support of ABC include: high quality, efficient distribution of broadband information signals by means of advanced modulation techniques, such as pulse code modulation; large screen, high definition three-dimensional color television; microminiaturized studio and transmission equipment and mobile satellite terminals to allow convenient coverage of all types of dispersed national or international events; and direct radio broadcast of hard copy printout, such as newspapers, to the home (Cookson 2863–65, 2869–71; J 262).

5.7. A key concern of ITT in making ABC competitive is to provide technological support to increase ABC's viewer coverage. [4596] Accordingly, ITT has a particular interest in advancing UHF technology. (Geneen 513–4, 522–3, 584, 1941–53, 1982–3, 1986–9, 2060; Benham 2749; Cookson 2836–7, 2842–6, 2851, 2856–7, 2861–2, 2863, 2868, 2874). In the spring of 1966 ITT commissioned a report by the consulting engineering firm of Jansky and Bailey which dealt primarily with UHF coverage (Cookson 2836, 2856–7, 2874). During the past year ITT has made arrangements to import new varactor-diodes developed by its European subsidiaries for distribution to all interested United States television set manufacturers. This new component will substantially increase the ease with which a television viewer can tune in a UHF station (Geneen 1943, 1945; Cookson 2845–6; J 262). ITT has likewise recently completed plans for the import into the United States of a new UHF transmitter which has been developed by its European subsidiaries and which has certain higher-quality performance characteristics than transmitters presently on the domestic market. Tentative arrangements have been made for distribution of this transmitter in the United States to all interested buyers through the broadcast engineering firm of Visual Electronics. (Geneen 1941–43, 1945, 1953; Benham 2790, 2800; Cookson 2842–45; J 262) ITT would not have endeavored to adapt this improved UHF transmitter for introduction into the United States, because of the small potential market, if it had not been for the prospective ABC merger (Cookson 2844, 2863, 2868).

5.8. If the merger is consummated, ITT intends to undertake a comprehensive systems analysis of one or more pilot UHF markets to determine the exact nature of the many interrelated problems of UHF coverage and utilization and the possible means of solving these problems in order to make UHF into an effective competitive outlet in the present 1- and 2-station markets (Geneen 1943–5; Cookson 2846–7). ITT presently is considering technological efforts directed at the following UHF

problem areas: [78] design of high power transmitting antennas; propagation and antenna coverage studies having special applicability to site selection and allocation activities of the affiliated stations; filling in shadows which are a particular problem with UHF by the more advanced application of retransmission systems; automation and control of UHF station operations; development of inexpensive very wide band receiving antennas designed to give equivalent performance over the whole VHF/UHF spectrum; and development of a new type of foam dielectric cable designed to reduce the transmission loss over the whole [4597] UHF band down to that normally experienced in low VHF bands (J 262).

VI. The Resultant Enhancement of Network Competition, ABC's Programming and UHF Broadcasting

6.1. The Commission's decision granting the merger application cited three significant public benefits: *First,* that ITT's larger resources will strengthen ABC's capacity to compete effectively with NBC and CBS; *Second,* that the merger, with the attendant infusion of capital resources, would provide tangible benefits in the next several years in such areas as conversion to color, new program production facilities and enlarged news and public affairs programming; and *Third,* that the merger would help UHF broadcasting, both by strengthening UHF affiliates and thereby UHF's competitive potential and by ITT's commitment to the advancement of UHF technology (9 R.R. 2d 12, 23–24). Following is a review of the ways in which the proposed merger will accomplish those benefits.

A. Enhancement of Network Competition

6.2 By associating itself with a company with the substantial and diversified resources of ITT, ABC management will be able to engage in long-range development and take program risks that are beyond the company's resources as now constituted. As described in paras. 4.17–4.21, *supra,* ABC has immediate cash requirements of $37,296,000 to convert its program schedule to

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[78] In addition to its work facilitating the tuning of television sets to UHF and improving UHF transmitters (para. 5.7, *supra*).

full color (para. 4.21). Such conversion is essential if ABC is to keep pace with CBS and NBC—both of which are already committed to full colorization. Similarly, as discussed in paras. 4.22–4.38, *supra,* ABC has an acute immediate need of some $72,000,000 to modernize its plant (paras. 4.30, 4.34). Such construction of new studio facilities is essential if ABC is to have a program production capability competitive with that of CBS and NBC. These expenditures are in addition to $37,185,000 needed by ABC's Broadcasting Division to finance other capital requirements over the next four years. (AR 3, Attachments A and B). Finally, as described in paras. 4.39–4.42, *supra,* the current commitments being made for feature film packages and feature film production are well beyond ABC's immediate means. Enormous resources will be required to go forward competitively in these program areas to which all three networks attach such importance. In each of these respects the infusion of ITT resources will permit ABC to keep pace with NBC and CBS in this period of rising costs and increased financial commitments.

[4603] C. ENHANCEMENT OF UHF BROADCASTING

6.18. One of the significant effects of the ABC–ITT merger will be to promote the development of UHF broadcasting (Goldenson, July 25, 1966 letter, p. 7; Goldenson 107–08; paras. 5.8, 5.9, *supra*). It is evident that ABC has a large stake in the success of UHF broadcasting. As heretofore shown, however, ABC's assistance to UHF development through affiliating UHF stations rather than sharing a VHF station on a secondary affiliation basis involves a major loss in advertising revenues, adding to the already substantial losses that are being incurred. With ITT resources, ABC will be better able to forego the short-term financial advantages of relying upon limited clearances on high circulation VHF stations in favor of the long range development of UHF stations. The attraction of ABC programming will also be an important means of inducing the public to make the requisite antenna installations and use the UHF portion of their sets. Conversely, if the merger is not approved, ABC will not be able to look to UHF for a long range

solution to its coverage deficiencies (*Ibid.;* see also Goldenson 273, 318–20, 326, 1668).

6.19. Because ABC, supported by ITT, will be able to place greater reliance upon the development of UHF stations as affiliates, all UHF broadcasting will be benefited. In the markets where ABC relies upon UHF, those affiliated stations will be directly benefited. Other UHF stations in these markets will also have the advantage of the UHF acceptance, particularly in terms of viewing habits, that ABC programming can bring. This general development and confidence in UHF in these markets can also be expected to aid the overall development of UHF on a national basis. Similarly, as shown, paras. 5.1a and 5.7–5.8, *supra,* ITT has a particular interest in advancing UHF technology in order to increase ABC's viewer coverage. Such technological advancements, while made on behalf of ABC, will benefit UHF generally.[82]

6.20. Finally, by enhancing the viability of UHF broadcasting the merger will help to open the way to a fourth television network—whether such a network takes the form of the present three networks or develops as some kind of specialized service. This will constitute a tangible step in favor of more television service and competition in broadcasting generally.

[4617] * * * * *

8.20. It should also be noted that the Department's allegations assume that loss of a single potential entrant such as ITT can affect the CATV industry's alleged "competitive influence" on broadcasting. The Department introduced no evidence as to the structure of the CATV industry, or the number and strength of potential entrants therein, to support its assumption. The evidence, however, demonstrates its invalidity. The CATV industry is not characterized by a few dominant members of a "closed" industry, but rather by "explosive" and "phenomenal" [124] growth and relative ease of entry. It has grown from

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[82] This is but one illustration of the ways in which technological advances stimulated by ITT's affiliation with ABC will benefit the communications industry and the public (see paras. 5.4 to 5.6, *supra*).

[124] See *Second Report and Order* in Docket Nos. 14895, et al., 6 R.R. 2d 1717, 1773.

a 1959 total of 550 CATV systems to an estimated 1,600 systems as of 1965 (J 136. p. 2), and with an estimated additional 1,958 persons applying for franchises as of early 1967.[125] Such substantial firms as Jerrold Corp., RKO General, Inc., Narragansett Capital Corp., Meridith-AVCO, Inc., Cox Broadcasting Co., General Electric, Kaiser Broadcasting Corporation, Time-Life, Cowles Communications Inc. and Newhouse Broadcasting Corporation are in the industry (J 136, p. 12; TV Factbook, 1966 ed.). There is no evidence that the presence or absence of ITT would have a significant competitive effect on the CATV industry, generally, or on the industry's effect (if any) on network broadcasting.

[4572] * * * * *

4.12. The most significant difference between the two reports is that AR 3. Attachment B includes an item of $41,775,000 for constructing and equipping the New York production center. This item was listed in AR 25A, but, as noted (para. 4.8, *supra*), no dollar amounts were assigned. The $41,775,000 total consists of $32,250,000 for construction and $9,525,000 for technical equipment. The construction estimate was prepared "in consultation with the Diesel Construction Company" and is based on a cost of $7 per cubic foot for studio construction and $3 per cubic foot for office construction [58] (Barnathan 2154-55, 2162-63). The same figures had previously been used by Diesel in preparing the $40 million construction estimate for the New York development submitted to ABC in January 1966, more than a year before the completion of AR 3, Attachment B (AR 15; see para. 4.7, *supra*).

4.13. Other differences between AR 3, Attachment B and AR 25A resulted from the following: (a) A decision in No-

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[125] *Second Report and Order*, 6 R.R. 2d at 1773.

[58] ABC's plan calls for erecting a 10-story office building above the production service and studio complex. This is in line with ABC management's instructions in July 1966 that a 25-year plan for utilization of the New York properties, with adequate office space, is a "minimum basis for starting the project" (AR 19, p. 2; Barnathan 2154-55, 2162-63; and para. 4.29, *infra*), and with the earlier recommendation of the Austin Company that a plan for the company's 20-year operating needs should include an office tower above the studio buildings (AR 39, Part 2, third unnumbered page).

vember 1966 to increase the New York technical center building from ten to twelve stories ($890,000) (AR 26, AR 25A, p. 2); (b) contractor estimates increasing the cost for the New York and Hollywood routing switchers which were known in November but were inadvertently omitted from the November report ($2,250,000) (Barnathan 2168-69); (c) A decision to increase the administration building in Hollywood from two to four stories due to increased personnel requirements ($950,000) (Barnathan 2132-36, 2308); (d) A decision to provide for full renovation and colorization [4573] of the Colonial Theater, or equivalent substitute, to serve as an off-site live audience theater ($2,360,000) (Barnathan 2181-86, 2240); [59] (e) The receipt of additional information as to requirements of owned and operated television and radio stations ($5,076,000), of which more than $2,600,000 is projected for the years 1969 and 1970 which were beyond the scope of AR 25.[60]

4.14. *The Five-Year Cash Flow Forecast.* In February 1967 ABC completed a consolidated cash flow forecast for the years 1966 through 1970 which was intended to show the amount of money needed from ITT (Siegel 2441). This analysis shows that during this period ABC projects its total available cash from all sources at $208,850,000 and its total uses of cash at $372,720,000, leaving a total cash deficit from operations of $163,870,000. ABC's net cash deficiency after borrowings for the period as a whole is $122,370,000, with a peak cash deficiency projected for 1969 at $85,105,000, plus an additional $20 million needed for normal working funds. (AR 3) In preparing these forecasts, it was assumed that ABC would obtain the operating facilities and programs necessary to compete effectively and would achieve a 15 per cent annual increase in net

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[59] AR 3, Attachment B also projects $1,800,000 for colorization of the Ritz Theater, but early completion of the New York studio complex may obviate the need for that expenditure (Barnathan 2187).

[60] AR 3, Attachment B assumes that ABC will have to purchase 42 new video tape recorders for color at a unit cost of $130,000, although it is possible that it may be able to use adapter kits manufactured by RCA which cost only $14,000 per unit. Mr. Barnathan has taken the conservative view that the machines will have to be replaced since RCA had demonstrated an unsatisfactory kit in November after a year and a half of work on the problem (Barnathan 2308-09).

earnings from operations, a rate of increase that it has not maintained historically (Siegel 2417-20; J 270, p. 21; AR 70). The optimistic 15 per cent rate was used so that "nobody could say we understated our cash position" (Siegel 2419).

4.15 Thus, ABC faces large and growing capital and operating expenditures which cannot be financed from its own cash generation. The inability of ABC to finance these requirements through additional senior borrowing and the advantages of the merger as compared to large scale equity and/or subordinated debt financing will be considered below. We turn next to the facts relating to the business reasons for the projected expenditures.

[4574] *(2) The projected expenditures are dictated by business and competitive necessities.*

4.16. The largest and most significant expenditures shown on AR 3 are (a) broadcasting division property and equipment expenditures totaling $146,736,000, which includes the committed and pending costs of (i) converting existing facilities to color and (ii) developing new studio complexes in New York and Hollywood; and (b) the projected expenditures of $70 million for new broadcast program right commitments and motion picture investments. These expenditures are dictated by the industry-wide trend to color, the obsolescence of ABC's present production plant, and the necessity of providing high quality and competitive programming.

(a) ABC's Color Conversion Program

4.17. There can be little doubt as to ABC's need to convert to color. As Mr. Siegel testified, "[T]he other networks are going to be all in color and we had to be also" (Siegel 2493). As stated in CBS's 1966 Annual Report (AR 44, p. 6):

> "The widespread use of color has increased television's impact as a graphic medium. Color not only enhances the quality of programming, but it also greatly extends television's advertising capabilities. Color set sales have been close to doubling in volume every year since 1962. By the end of 1966, nearly one-fifth of American homes had color sets."

Originally, it was ABC's intention to colorize gradually, but competitive developments in the spring and summer of 1965 made this impossible. Specifically, CBS announced to its affiliates in May 1965 that nearly half of its 1965–66 and all of its 1966–67 prime-time schedule would be in color. Shortly thereafter, ABC management learned that General Electric planned to market a $200 color receiver, which it felt portended a sharp increase in the color audience. In light of these developments, and with NBC already virtually in full color, ABC's affiliates, its stations, and the ABC Program Department urged management to convert to color as rapidly as possible. (Siegel 2489–94, 2511–13; Barnathan 2290–94; AR 44, p. 6).

4.18. As a result of the accelerated colorization program, ABC appropriated more than $8.3 million for colorization in 1965, and approximately that amount in 1966, as compared to only $882,000 invested in 1964, and a total of only $1,458,075 from April 1962 through 1964 (AR 55, pp. 2–3; AR 40, Attachment 17).

[4575] 4.19. Despite these substantial expenditures, ABC's present color capability does not match that of NBC or CBS. NBC is already in full color, including daytime, late-night, and news, as well as prime evening hours (Siegel 2490; AR 43, p. 12); CBS went to color for its evening schedule and news in the fall of 1966, and has announced that all regularly scheduled programs, including daytime, will be in color by the fall of 1967 (Barnathan 2294; AR 44, p. 6). ABC's evening schedule was converted to color in the fall of 1966, and ABC news has been in color since January 1967. ABC plans to meet the daytime color competition as soon as possible, but this will depend on how quickly it is able to complete the conversion of existing studios to color (Barnathan 2290; Siegel 2490–94).

4.20. Since all of ABC's Hollywood studios and at least six of its nine New York studios are in full time use to meet ABC's current program requirements, those facilities or the equivalent will have to be colorized before ABC is in a position to offer a full color schedule (Barnathan 2094–97). To date, ABC has colorized four of its seven Hollywood studios, with a fifth scheduled to be completed by August 1967. Of the two remaining studios, one is scheduled to become a rehearsal hall, the other

is to be colorized by means of a mobile control room.[61] In New York, only one of ABC's nine studios has been converted to full color (TV–11); a second (TV–1), has been partially colorized; and a third (TV–A) is in process and scheduled to be completed in July 1967. Thus, to enable it to present a full color schedule, ABC's plans call for colorizing three more of its New York studios (TV–2, TV–15, TV–16), plus colorization and renovation of the Colonial Theater, or more modern substitute, to serve as an audience theater.[62] (AR 31, pp. 9–12; Barnathan 2177–87, 2247–48).

4.21. While ABC would have preferred to avoid the crash program of colorization on which it is now embarked, the pace of color development by its competitors did not permit such a gradual approach. As a result, ABC cannot wait for its new studio complexes to be completed but must proceed with its colorization program and must bear the heavy capital costs involved. The record shows that as of February [4576] 8, 1967, ABC faced expenditures of $37,296,000 for completing colorization of its existing network and owned and operated facilities.[63]

(b) ABC's Plant Modernization Program

4.22. ABC faces heavy capital expenditures over the next four years for new studio complexes in New York and Hollywood. These complexes have been under study for several years, and are needed if ABC is to have modern and centralized production facilities comparable in size, flexibility and efficiency to those of its competitors (Goldenson 1522–24, 1593). Mr. Barnathan, the ABC Vice President responsible for new studio

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[61] Additional color capability will be provided by two new studios to be built as part of the Hollywood complex (AR 31, pp. 18–19; Barnathan 2137–38).

[62] As noted above, Note 59, although ABC has projected $1,800,000 for colorization of the Ritz, it may be able to avoid doing so, in which event its projected capital expenditures would be reduced accordingly.

[63] This amount consists of all amounts specified in AR 3, Attachment A ($9,245,000) and AR 3, Attachment B ($28,051,000) for colorization projects, including color equipment, major structural renovations required for studio colorization, color mobile units, and video tape recorders and special color expenditures for the 1968 Olympics and political conventions.

development, described the new production complexes as "absolutely essential," and went on to testify: "It is essential now and it is essential for the future and if we don't start it now, we will never have it in time" (Barnathan 2307, 2310–13, 2291–2300).

4.23. In December 1964, a year before the merger agreement, the ABC Executive Committee disapproved further piecemeal construction of facilities and authorized $300,000 to be spent for preparing designs and plans for the future use of ABC's 66th and 67th Street properties in New York City, and a like amount to plan for updating and expanding ABC's television studios, office area, and technical facilities in Hollywood (Goldenson, 1529, AR 6, 7, 8, 9, J 299). The development of ABC's plans from December 1964 to date are considered for (i) New York and (ii) Hollywood, followed by (iii) a series of findings comparing ABC's present New York and Hollywood facilities with those of NBC and CBS.

(i) New York.

4.24. The record shows that ABC's television plant in New York dates back to the early days of television. It grew piecemeal to meet rapidly changing requirements and is inadequate by contemporary industry standards. (Barnathan 2293–94; AR 37, p. 1) Only four of ABC's nine New York studios are on its 66th Street site; the others are widely scattered throughout the city (Barnathan 2141–42). ABC has only three studios larger than CBS's smallest New York studio; the other six are all less than 3,000 square feet and are not suitable for [4577] most production purposes (compare AR 13, p. 7 with AR 13, p. 1, AR 37, p. 3 and AR 38, pp. 9–10). ABC has no New York studio larger than 5,332 square feet, and because of insufficient size and lack of audience facilities, none of its New York studios is suitable for major live dramatic or musical shows (AR 13; Barnathan 2311–12; Goldenson 1522–4). Auxiliary services, such as film services, production services, and technical operations, are inadequately housed and far removed from the studios they service, creating costly problems of communication, transportation, and coordination (Barnathan 2141–2, 2296–8). ABC's technical support equipment in New York is

located in crowded, improperly cooled areas and much of it is obsolete and should be replaced by more sophisticated equipment (AR 39, Austin Plan for N.Y., Minutes of Meetings No. 6, pp. 1–5; AR 31, p. 23; Barnathan 2141, 2165–6). ABC's news department is dispersed among eight different buildings, both on and off the 66th Street site (AR 39, Minutes of Meeting No. 8, pp. 1–2, 17).

4.25. Prior to completion of its New York Broadcast Center in 1964, CBS had a facilities problem almost identical to that now faced by ABC. Its plant, as stated in a CBS brochure, had been "installed quickly during the early days of television broadcasting and expanded piecemeal to meet changing requirements". As a result, it was old, widely dispersed, and inefficient. CBS management met the problem by authorizing construction of a centralized production center, including studios and support facilities and services, embodying concepts then being applied in the design and construction of new television plants The objective was "to bring about a more efficient operation and one which is capable of producing a high quality product." This is precisely what ABC is planning to do in New York (AR 37, pp. 1–6; Barnathan 2293–95).

4.26. In April 1965, ABC retained the Austin Company to evaluate ABC's New York properties and develop plans for a consolidated production center on the 66th and 67th Street properties (AR 39, Part I). Austin found that of fourteen buildings on ABC's 66th Street site, only two were suited to rehabilitation, and recommended that the other twelve be demolished as unusable, marginal, or incapable of substantial modification (AR 39, Part III A, Evaluation of Existing Buildings). Austin further found that ABC's operating efficiency was being adversely affected by two major factors: the use of "outdated buildings," resulting in "limited or unoccupied cubage and the overcrowding of usable buildings to serve the needs of the production operations"; and [4578] "the splitting of functions, portions of which are presently housed in satellite locations, causing difficult coordination and communication which results in efficiency loss" (AR 39, Part II, Results).

4.27. In order to assess ABC's requirements, the Austin Company consulted with staff members of each ABC department. It

was advised that ABC-New York required an overall increase in floor space devoted to production from approximately 100,-000 square feet to 221,890 square feet. With respect to studios, the need described to Austin was for thirteen studios and three recording-rehearsal halls.[64] In addition, Austin was advised that ABC needed substantially expanded and centralized technical operations and other service facilities (Barnathan 2139-42; AR 39, Minutes of Meetings).

4.28. In June 1966, after studying the problem for more than a year, Austin submitted its plan for developing the 66th and 67th Street properties. While ABC management continued to recognize the necessity for a New York production complex on that site, it found the Austin approach unacceptable, largely because of uneconomic utilization of the land. All of the buildings Austin proposed were six stories or less in height, although zoning restrictions would permit much higher buildings, and the building proposed for Columbus Avenue, the most valuable frontage on the site, was only a three story theater. Further, the Austin plan did not provide for an efficient relationship among the various ABC departments, and did not leave land for future development (AR 19, 20; Goldenson 1532; Barnathan 2143, 2271–77; Siegel 2394–97).

4.29. Upon rejecting the Austin approach, ABC management directed ABC's engineering and construction departments, under the direction of Mr. Barnathan, to develop a new design for the 66th and 67th Street properties that would provide for ABC's needs for 25 years. This meant making better use of vertical space on the site and [4579] reserving some portion of it for future use (Siegel 2394–97; AR 19–20). In accordance with instructions from management, ABC staff engineers

[64] These included, in addition to TV-1, TV-2 and TV-A (which were housed in the two usable buildings), a 12,000 square foot theater studio, an 8,000 square foot audience participation studio, three 5,000 square foot studios with twenty foot grid height, one network utility studio of 4,000 square feet, two 20 x 40 foot recording halls (which could serve as rehearsal facilities), a 5,400 square foot WABC-TV studio (TV-X), a small WABC-TV studio and rehearsal hall, and two New York TV news studios of 8,000 square feet and 5,000 square feet, respectively (AR-39, Minutes of Meetings No. 13, pp. 13-6, 13-7; No. 16, p. 6, No. 8, pp. 16-17). It was contemplated that five presently used studios (TV-C, TV-11, TV-15, the Colonial and the Ritz) would be abandoned.

set to work in the summer of 1966 to devise a plan that would satisfy ABC future production, technical and office space requirements and still leave room for future development. Beginning in August. Mr. Benham of ITT participated in these studies in a liaison capacity (Barnathan 2142–43, 2276; Benham 2718, 2721, 2772; J 256, J 300).

4.30. The ABC staff gave first priority to the development of a technical center and proposed that a ten-story technical center be erected on 67th Street directly in back of the proposed studio and production service complex (Barnathan 2165–67; J 300). Consulting engineers were retained (AR 22), a building permit application was filed (AR 23), the plan was later revised to provide for a twelve-story technical center (AR 26; Barnathan 2167), and cost estimates for construction and equipment were developed (AR 24, p. 2; AR 25A, p. 2; AR 26). During this period, the ABC staff also began to develop its plans for the New York production center. As detailed in a status report submitted to the ABC Board of Directors on February 13, 1967 (AR 31), these plans call for a modular series of three studios with fully integrated production services built along 66th Street, in a position to be serviced by the technical center. (Barnathan 2275–7; Siegel 2398–2400). It is also proposed to provide ten stories of office space above the studios, in accord with management's objective to provide adequate office space and achieve maximum vertical use of the land (Barnathan 2158–9, 2162–3; Siegel 2395–7). The costs involved in the New York production complex, as summarized on AR 3 Attachment B are $12,855,000 for the Technical Center and $41,755,-000 for the Production Plant, including studios, production services, and office building.

[5199] * * * * *

[Excerpts from ABC–ITT Reply Findings]

2.35. Moreover, the thrust of Mr. Goldenson's testimony was not whether programs were cleared at one particular hour or another but the fact that during certain clearance periods the sets in use on some occasions were as low as 20% or less, in comparison with the much higher levels prevailing when

the programs are fed live. AR 65 lists numerous prime time programs which were cleared at time periods where, according to November 1966 ARB reports for the particular markets, the sets in use during the clearance periods were less than 20%. Included are the following examples: Voyage (Harlingen-Weslaco, Saturday 4:00–5:00 PM); FBI (Abilene, Thursday 10:30–11:30 PM); Combat (Columbia-Jefferson City, Monday 10:30–11:30 PM); Monroes (Waco-Temple, Wednesday 10:30–11:30 PM); Stage 67 (Springfield, Missouri, Sunday 10:30–11:30 PM); and Batman II (Abilene-Sweetwater, Friday 5:00–5:30 PM).[15]

2.36. From the foregoing, it is obvious that the Department's charge concerning Mr. Goldenson's statement at page 1619 is without foundation. Not only is there no showing that Mr. Goldenson did not have a full and proper basis in past experience for his statement, but reference to the very exhibit upon which the Department relies, coupled with industry figures on

[15] AR 65 is based upon the week of April 16–22, 1967. Sets in use percentages for particular markets are not available for this week. Instead, we have used the November 1966 ARB reports for the particular markets.

sets in use, discloses that numerous ABC prime time programs were broadcast either in the postmidnight period or at other times when the sets in use were 20% or less.

[Excerpts from Department of Justice Proposed Findings]

[4687] 1.27. A company which owns and operates a group of stations in the major markets without network affiliations (e.g., Metromedia's stations in New York, Los Angeles and Washington; RKO General's stations in New York, Los Angeles and Windsor, Canada), and which has the economic resources to do so, would be a likely potential entrant into networking (Goldenson 1679–81). This is because those station groups venture into the origination of programming and syndicate programming (Goldenson 1680–1, 1692). There is a great economic incentive for such group owners to originate programming in order to attract audience and then to network such programming in order to amortize the cost over a larger number of outlets. In addition, the development of a network would add a great increment in value to stations in the major

markets; in the leading markets, affiliations with existing networks are not available because the networks have owned-and-operated stations (Goldin 3034–7, 3077).

1.28. Absent the merger, ITT's entry into ownership and operation of television stations in major markets would make it a likely potential entrant into network broadcasting (Finding 1.25–1.27, *supra*). ITT's experience in the ownership and operation of a station group would provide it with experience in programming and with managerial talent; there are numerous sources, apart from the three existing major networks, from which programming material and talent are available (See Television Factbook (1966 ed.) pp. 28–c to 45–c; Report of A.D. Little, Inc. on *Television Programming, Procurement and Syndication,* filed in FCC Docket No. 12782). [4688] ITT has had within its organization, and can obtain elsewhere, skilled personnel with knowledge and expertise in the broadcasting industry and in network operations (see Findings 1.5–1.6, 1.19, *supra*). In addition to the economic incentive to expand into networking in order to increase the value of its station group, ITT would have the capabilities and incentives shown by its large financial resources, its skilled management team and concepts, its experience and resources in the telecommunications field and its desire to obtain the revenues, earnings, cash throw-off, enhanced "image" and "ancillary marketing benefits" which it foresaw from the ABC merger (J232, J238).

1.29. At the September hearing, Dr. Saulnier presented testimony that "the structure of the broadcasting industry in the United States will be precisely the same after this merger is fully consummated as it is at present." (ITT Ex. 12a, p. 6)

1.30. The Commission relied upon the above statement in its decision of December 21, 1966, par. 26 of which contains virtually the same statement.

1.31. At the supplementary hearing, Dr. Saulnier stated that the above statement quoted in Finding 1.29 referred only to the number of the existing networks and their primary affiliates in the existing three-network industry structure and that he had not considered potential competition or potential industry structure (797–8). He had not considered the effect of the merger upon [4689] potential entry of ITT into broadcasting.

(Nor had he considered the effect upon potential entry of ITT into CATV, the effect of the merger in retarding certain developments in communications technology, or the effect of the merger on the advertising market) (781–2, 789).

1.32. In view of the existence of only three companies in the television network broadcasting field, and the public importance of diversity and competition in that field, the elimination of a likely potential entrant into network broadcasting by merger with an existing network is likely to have an adverse effect upon the structure of the industry.

[4696] * * * * *

6.53. In August 1966, Benham discovered there was "internal disagreement" within ABC about the so-called master plan of expansion (J256, Benham 2759–60). Some persons in ABC thought that new audience studios were important, while others felt that audience studios should be located in theatres away from the West 66th St. complex. There was also disagreement on the appropriate size of [4697] studios, the views being expressed in ABC that various studios were too small or too large (Benham 2759–60).

6.54. In August 1966, Mr. Benham believed that ITT should give "firm guidance" to ABC with respect to the master plan of expansion (J256; Benham 2725, 2761). He actively participated in ABC's facilities planning, attending meetings with ABC personnel, and offering his opinions and suggestions (Benham 2738–9). He assumes that at some point he suggested or stated that it would be a "good idea" for ABC to have an overall facilities status report and plan (Benham 2778). On October 5, 1965, the first step of the master plan was agreed upon—a technical facilities building in the 66th Street complex (J300).

6.55. In October 1966, the ABC engineering department prepared pending project reports listing the total cost of then anticipated property and equipment projects. One report forecast the cash flow expenditures through 1967 (AR24) and the other forecast expenditures through 1968 (AR25). This was the first time that ABC forecast anticipated cash flow for property and equipment expenditures for more than a single calendar year (Barnathan 2079).

6.56. The major projects anticipated at that time were (AR25):

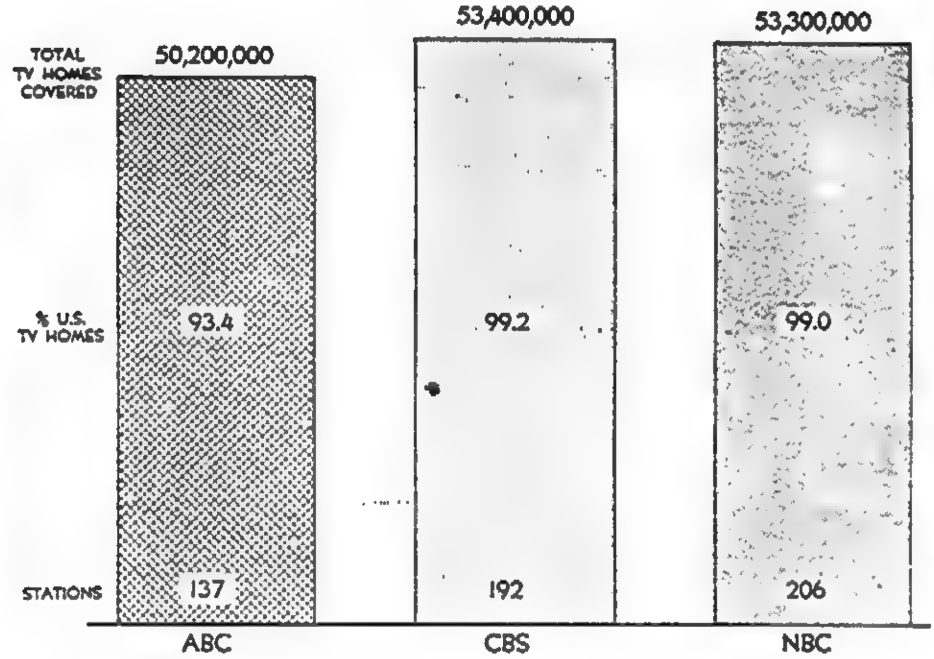
New York:[4]	Cost
1. New technical building	$9,800,000
2. Colorization of Studios TV-1 and TV-2	4,000,000
3. Colorization of 53rd Street Studio (TV-16)	500,000
4. Colorization of Elysee Theatre (TV-15)	800,000
5. Interim Color at Colonial Theatre	650,000
[4698] Hollywood:	Cost
1. New Hollywood technical building	$5,375,000
2. Colorization of Studio D	2,320,000
3. Colorization of Studio A	1,350,000
4. Colorization of Studio B	1,360,000
5. Construction of a new network Studio	5,000,000
6. Addition of two stories to the administration building	800,000
7. Other additions to the Hollywood properties	1,930,000
(AR25)	

At that time, the total sum for pending projects was $57,609,900 of which $32,280,000 was scheduled for 1967 and $23,371,500 was scheduled for 1968 (AR25).

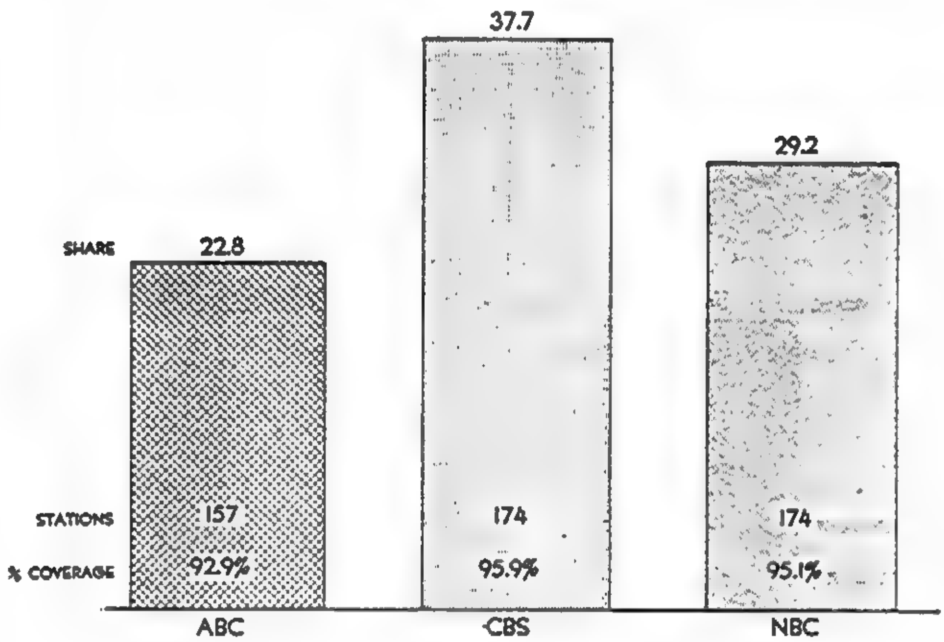
6.57. On November 1–3, 1966, a series of meetings between the ABC engineering and programming divisions was held in Los Angeles, attended by Mr. Benham of ITT. The building construction and facilities requirements for the expansion of the Hollywood plant were reviewed (J324). The long term program plans were fully explored at this series of meetings and a decision was made to originate more programs from Hollywood and less from New York (J324, Benham 2736, 2737, 2767, 2768). The facilities program was adjusted accordingly (J324, Benham 2737).

6.58. As late as January, 1967, ABC had not finalized the plant expansion program which it now submits to the Commission as representing its needs (J257). There is testimony that the ABC's engineering department was directed to prepare a final report on expansion plans at an ABC board meeting in December, 1966.

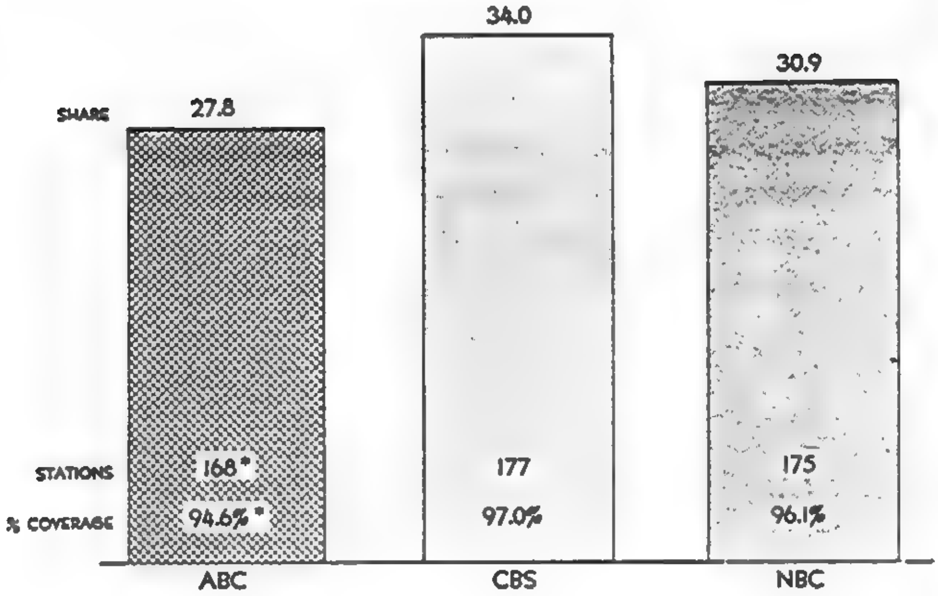
[ABC Exhibit 30]



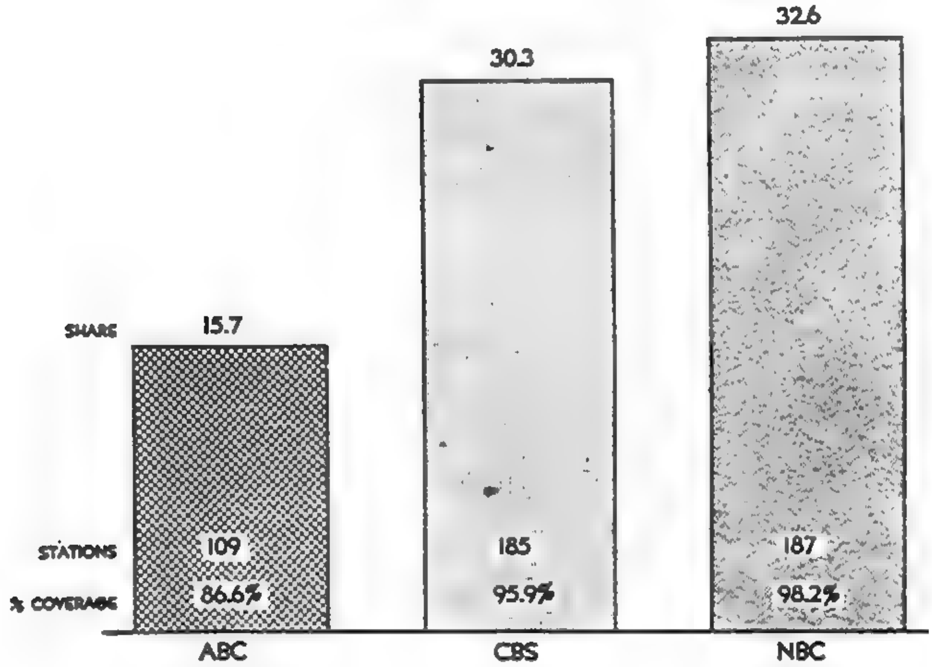
[ABC Exhibit 33]



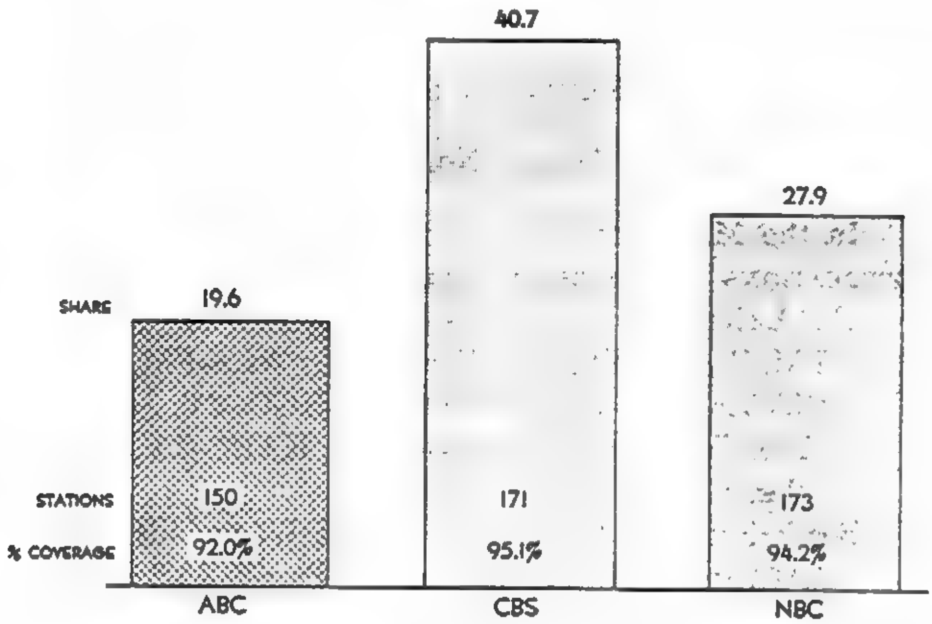
[ABC Exhibit 34]



[ABC Exhibit 35]



[ABC Exhibit 36]



[5290] BEFORE THE

FEDERAL COMMUNICATIONS COMMISSION

WASHINGTON, D.C. 20554

Docket No. 16828

In the Matter of

APPLICATIONS BY AMERICAN BROADCASTING COMPANIES, INC.

For Assignment of Licenses of Stations WABC, WABC–FM, WABC–TV, New York, N.Y.; WLS–FM, WBKB, Chicago, Ill.; KGO, KGO–FM, KGO–TV, San Francisco, Calif.; KABC, KABC–FM, KABC–TV, Los Angeles, Calif.

For Transfer of Control of Stations WLS, Chicago, Ill.; KQV and KQV–FM, Pittsburgh, Pa.; WXYZ, WXYZ–FM, WYXZ–TV, Detroit, Mich.

For Assignments and Transfers of Ancillary Radio Facilities.

ERRATA

Adopted: June 26, 1967 Released: June 27, 1967

Paragraph 86 of the Commission's Opinion and Order on Petition for Reconsideration, FCC 67–743, released June 22, 1967, is corrected to read as follows:

> We have not repeated the substantive discussion in the Commission Decision, since the evidence in the supplementary record, although in much greater detail than previously before us, does not lead us to change conclusions previously reached, except as herein specified. Accordingly, we affirm our prior Decision herein, and supplement and modify it by the addition of the findings and conclusions in this Opinion and Order. The Memorandum Opinion and Order of the Commission entered herein on December 21, 1966, together with and as modified by this Opinion and Order, shall con-

stitute the Opinion of the Commission. The conditions specified in this Opinion are binding on the applicants and, therefore, need not be recited in the ordering clause.

FEDERAL COMMUNICATIONS COMMISSION,
BEN F. WAPLE, *Secretary*.

FCC 67-743

[5291] BEFORE THE

FEDERAL COMMUNICATIONS COMMISSION

WASHINGTON, D.C. 20554

Docket No. 16828

In the Matter of

APPLICATIONS BY AMERICAN BROADCASTING COMPANIES, INC.
For Assignment of Licenses of Stations WABC, WABC-FM, WABC-TV, New York, N.Y.; WLS-FM, WBKB, Chicago, Ill.; KGO, KGO-FM, KGO-TV, San Francisco, Calif.; KABC, KABC-FM, KABC-TV, Los Angeles, Calif.
For Transfer of Control of Stations WLS, Chicago, Ill.; KQV and KQV-FM, Pittsburgh, Pa.; WXYZ, WXYZ-FM, WXYZ-TV, Detroit, Mich.
For Assignments and Transfer of Ancillary Radio Facilities.

OPINION AND ORDER ON PETITION FOR RECONSIDERATION

Adopted: June 22, 1967 Released: June 22, 1967

BY THE COMMISSION: COMMISSIONERS BARTLEY, COX AND JOHNSON DISSENTING WITH SEPARATE STATEMENT.

1. This proceeding involves applications by American Broadcasting Companies, Inc. (ABC) for Commission approval of assignments and transfers of its licenses for broadcasting stations to a new corporation of the same name which will be a subsidiary of International Telephone and Telegraph Corporation (ITT). By a Memorandum Opinion and Order of December 21, 1966 (Decision) the Commission approved the transfer, with three Commissioners dissenting. Thereafter, on January 18, 1967, the Antitrust Division of the Department of Justice (De-

partment) filed petitions for reconsideration, for leave to intervene, and for a stay of the Commission's Decision. Opposition to the Department's petitions was filed by applicants. On February 1, 1967, the Commission entered an Order on Petition for Reconsideration which: (1) permitted the Department to intervene and made it a party; (2) required the Department to specify the issues which it desired to raise and to file copies of its proposed exhibits, identification of its proposed witnesses and statements of their proposed testimony; (3) required applicants to file such responsive exhibits, identification of witnesses and proposed testimony as they [5292] deemed relevant or material; (4) permitted the Department to make a rebuttal filing; (5) provided that the Commission would thereafter take appropriate action on the basis of the filings; and (6) stayed the Decision of the Commission until action on the petition for reconsideration or other order.

2. In response to the February 1, 1967, order of the Commission the Department filed a Specification of Issues and Evidentiary Material in Support of Petition for Reconsideration by the Department of Justice. This filing specified six issues, identified six proposed witnesses and stated their testimony, and was accompanied by 260 proposed exhibits. A responsive statement was filed by applicants, accompanied by 5 proposed exhibits. A brief rebuttal was filed by the Department. On March 16, 1967, the Commission entered a Further Order on Petition for Rehearing which reopened the record herein for the purpose of adducing supplementary evidence; designated the matter for hearing upon the issues: (1) To determine the benefits to the public interest from the proposed merger; (2) To determine the detriments to the public interest from the proposed merger; and (3) To determine, in light of the evidence adduced on the above issues and the entire record, whether the public interest will be served by a grant of the applications; made the Commission's Broadcast Bureau a party to the proceeding; specified various other procedures and time limits to be followed; and provided that upon the closing

of the supplemented record it should be certified immediately to the Commission for a final decision.

3. Pursuant to the Further Order on Petition for Rehearing, two prehearing conferences were held, a hearing was held before the Chief Hearing Examiner of the Commission and an extensive supplementary record was compiled. The Department called a total of 26 witnesses, including 2 of those named in its Specification, and offered some 364 exhibits, including the 260 previously filed with its Specification. The Broadcast Bureau called 4 witnesses and offered 51 exhibits. Applicants called 3 witnesses and offered 87 exhibits, including the 5 filed in its response to the Department Specification, and one witness appeared and was heard as a public witness. The record of the supplementary hearing comprises more than 3,100 pages of transcript.

4. Following the supplementary hearing the Department filed proposed findings, conclusions and argument, totalling more than 320 pages; the Broadcast Bureau filed proposed findings and conclusions totalling more than 150 pages; the applicants filed proposed findings, conclusions and argument totalling more than 200 pages; and the American Civil Liberties Union (ACLU) filed a proposed statement as amicus curiae of 21 pages. Following these filings, the Commission en banc heard oral argument from the parties for two days, compiling a further transcript of more than 440 pages.

5. The extensive proceedings held by the Commission prior to the issuance of its Decision are set forth in paragraphs 1 to 14, inclusive, of [5293] the Decision, and will not be repeated here. The chronology of the proceeding prior to the filing of the Department's Petition for Reconsideration is set forth in the Order on Petition for Reconsideration of February 1, 1967, and will not be repeated here. The proceedings subsequent to the filing of the Department Petition have been set forth above. As the result of all these proceedings, the Commission now has before it a transcript of 4,327 pages, a total of about 550 exhibits, numerous pleadings and other documents filed in the docket of this proceeding, and hundreds of pages of proposed findings and conclusions and argument. All of these are included in the record of this proceeding. Except for such exhibits and

testimony as were specifically excluded or stricken by the Chief Hearing Examiner for reasons stated on the record, we receive all other exhibits, testimony, documents and evidence offered or filed in the docket herein with or since the filing of the applications as part of the record herein. We have reviewed all of the rulings of the Chief Hearing Examiner and are satisfied that he made no prejudicial errors. Although the Commission might have ruled differently on particular items of testimony or evidence, the Chief Hearing Examiner permitted a most wide ranging inquiry into all of the facts underlying this proposed merger, and neither the Department nor the Bureau was precluded from following any significant line of inquiry or offering any material evidence. We have examined the entire record of the supplementary hearing and are satisfied that no material evidence was excluded and that, therefore, no prejudicial errors were committed. Accordingly the rulings of the Chief Hearing Examiner on all questions of the admission and exclusion of evidence are hereby affirmed.

6. The issue now before the Commission is whether it shall affirm, reverse, modify or set aside its Decision in this proceeding. 47 USC sec. 405; 47 CFR sec. 1.106. There are various rules and principles, deriving from the statutes, the rules, Commission precedent and judicial authority, relating to the scope and character of the showing that must be made and the weight of evidence required for reconsideration or reversal of a Commission action. However, because of the significance and unique character of this case, we believe that it should not be decided on the basis of technical rules of procedure or burden of proof, but that the Commission should consider all the facts and weigh all the evidence to ascertain as best it can the present situation and the probable future, and should then determine the public interest based on such appraisal. Thus we have undertaken to decide this case on the merits on the basis of a complete investigation and inquiry into all of the facts and circumstances and have reached conclusions on all of the issues, which conclusions we judge to be based upon a clear preponderance of the evidence.

7. The Commission Decision noted that we deemed it appropriate and necessary to give consideration to the competitive

factors involved in the situation before us under the "public interest" standard, although competition as such was not to be considered as the single or controlling reliance for safeguarding the public interest. Decision pars. 19, 20. That is the appropriate principle and we follow it herein. F.C.C. v. RCA Communications, 346 US 86 (1953); Seaboard Air Line RR v. United States, 382 US 154 (1965), US (1966); Denver & Rio Grande Western RR v. United States, US (June 5, 1967) 35 LW 4531. The Department agrees that these are the correct principles to guide us, and urges further that:

[5294]

> "It is customary for regulatory agencies to look to antitrust experience and the criteria developed in antitrust cases when they consider competitive issues under broad public interest authority." (Department Brief, p. 17, n. 5.)

We agree that this states a proper approach and shall seek to apply the criteria drawn from antitrust experience in judging the competitive issues presented here. Thus, while we do not and cannot decide this as an antitrust case, we shall take into account antitrust concepts and criteria in analyzing and weighing the competitive factors involved; and we acknowledge that the participation of the Department, the extensive and thorough investigation that it has made, and the evidence that it has adduced have been helpful in further defining and illuminating the issues relating to competition, as well as other matters relating to the broader public interest standard.

8. It is elementary antitrust law that there must be a determination of the relevant market as a necessary predicate to any finding as to the substantiality of an effect upon competition. Brown Shoe Co. v. United States, 370 US 294, 342 (1962); United States v. Philadelphia National Bank, 374 US 321 (1963); United States v. Penn-Olin Chemical Co., 378 US 158 (1964); F.T.C. v. Consolidated Foods, 380 US 592 (1965); United States v. Von's Grocery, 384 US 270 (1966); F.T.C. v. Procter & Gamble, US , 18 Led2d 303 (1967); statement of Assistant Attorney General Donald F. Turner, 35 L.W. 3300. The parties in the present case agree

that the relevant market here is the operation of national television networks. Transcript (herein cited as "T") 3947, 4280. The record, and our own analysis, supports this conclusion, and we so hold.

9. This brings us to the first issue raised by the Department, its contention that ITT is a "potential independent entrant" into the relevant market. There is no contention and there is no evidence that any actual competition in the relevant market is or would be lessened by the proposed merger, and no significant horizontal or vertical market relationship between the merging companies has been suggested or shown. This aspect was covered in paragraph 21 of the Commission Decision, and requires no further discussion. The argument of the Department is that the lessening of potential competition must be determined by analysis of market structure and position, and that the applicable tests have been developed in antitrust cases dealing with the problem of potential competition, which are United States v. Penn-Olin Chemical Co., 378 US 158 (1964), United States v. El Paso Natural Gas Co., 376 US 651 (1964). and F.T.C. v. Procter & Gamble Co., 18 Led2d 303 (1967). Accordingly, close examination of these cases is warranted.

10. In United States v. Penn-Olin Chemical Co., supra, the Department brought action to enjoin a joint venture by two large chemical companies, Pennsalt and Olin, to manufacture sodium chlorate in the southeastern part of the United States, which was the relevant market. Penn-Olin was the jointly established corporation. The trial court held [5295] that competition had not been lessened because it was not shown that there was a probability of both companies, Pennsalt and Olin, entering the relevant market. The Supreme Court held that it was error to apply as the sole test the probability that both companies would enter the relevant market, and that the trial court should have considered whether one company would have entered the market while the other "remained at the edge of the market, continually threatening to enter." 378 US 173. The Supreme Court noted and relied upon evidence that both companies, Pennsalt and Olin, had shown a long-sustained and strong interest in entering the relevant market, that each had business connections with consumers of sodium chlorate in the relevant

market, that each had the know-how and capacity to enter the relevant market, that each could enter the relevant market at a reasonable profit, and that each had "compelling reasons" for entering the market. The court noted that "this array of probability certainly reaches the prima facie stage," but nevertheless did not warrant disturbing the finding made by the trial court, and, therefore, the case was remanded to the trial court for further findings on the issues posed by the Supreme Court holding. Upon remand and further consideration, the district court held that the record did not show a "reasonable probability" that either Pennsalt or Olin alone would have entered the relevant market. The court found that it was possible that Pennsalt alone might have entered the relevant market, saying, "Anything is possible." The court found on the record that this was unlikely, that the Department therefore had failed to establish by a preponderance of the evidence that as a matter of reasonable probability either Pennsalt or Olin would have entered the relevant market individually, and therefore it dismissed the complaint. United States v. Penn-Olin Chemical Co., 246 FSupp 917 (DC Del., 1965).

11. In United States v. El Paso Natural Gas Co., supra, the Department brought suit against El Paso, a natural gas company, for violation of section 7 of the Clayton Act in acquisition of Pacific Northwest, also a natural gas company. After trial and oral argument, the district court announced from the bench, without an opinion, that judgment would be for the defendants, and thereafter the court adopted verbatim the findings of fact and conclusion of law submitted by defendants. On direct appeal, the Supreme Court reversed and directed divestiture of Pacific Northwest by El Paso. The court stated that the production, transportation and sale of natural gas within the State of California was the relevant market. The court held that the sole question presented was whether, on the undisputed facts, the acquisition had sufficient tendency to lessen competition in that market to constitute a violation of the Clayton Act, in view of the circumstances of the case. The court noted that the test of anticompetitive consequences to be applied in such a case, as enunciated in Brown Shoe Co. v. United States, 370 US 294, is whether the assailed action had the probability of the

forbidden result. It said that Congress was not concerned with mere "ephemeral possibilities" and did not require certainty, but that it did seek to prohibit mergers "with [5296] a probable anticompetitive effect." The court summed up the crucial facts of the case as follows:

> Pacific Northwest, though it had no pipeline into California, is shown by this record to have been a substantial factor in the California market at the time it was acquired by El Paso. At that time El Paso was the only actual supplier of out-of-state gas to the vast California market, a market that expands at an estimated annual rate of 200 million cubic feet per day. At that time Pacific Northwest was the only other important interstate pipeline west of the Rocky Mountains. (376 US 658–9.)

The court also set out a number of other important facts, including these: Pacific Northwest had entered into a contract with El Paso to supply El Paso with 250 million cubic feet of gas per day for the California market, and had advised its stockholders that this deal would protect the market of Pacific Northwest against future competition and would protect El Paso's California market against future competition. After this deal was frustrated by refusal of Federal Power Commission approval, Pacific Northwest actually tried to enter the California market. It reached an agreement with California Edison, the largest industrial user in Southern California, to supply natural gas to Edison. El Paso succeeded in frustrating and terminating that agreement, and thereafter it made arrangements to acquire Pacific Northwest. The court remarked that the natural gas industry is a regulated one with few suppliers and few distributor-customers in a given market. It also noted that subsequent to the acquisition of Pacific Northwest by El Paso two interstate pipelines, previously not as close to the California market as Pacific Northwest, had entered and were then serving that market. In all these circumstances, the court held that the elimination of the competition of Pacific Northwest, although it was only potential competition in the California market at the time of the acquisition, amounted to a

probable lessening of competition sufficiently substantial to violate the Clayton Act.

12. In F.T.C. v. Procter & Gamble Co., supra, the Supreme Court sustained an order of the FTC requiring Procter & Gamble Co. to divest itself of Clorox Chemical Co., which it had acquired, on the grounds that the evidence in the record before the Commission was adequate to sustain the Commission finding that the acquisition might substantially lessen competition. Basing its holding on the record before the Commission, the court mentioned the following points as significant. The acquisition is not usefully described by the conventional labels of "horizontal" or "vertical" or "conglomerate," but may most appropriately be described as a "product extension merger." The relevant market was that of household liquid bleach. At the time of merger, Clorox, the acquired company, was the leading manufacturer in the relevant market, was the only firm selling [5297] nationally in the relevant market, had 48.8% of the national sales and had been steadily increasing its market share during the preceding five years. Its nearest rival sold only 15.7% of the product in the relevant market, and other indicia showed Clorox had even greater dominance of the relevant market than indicated by its percentage share. Procter, the acquiring company, was active in the general area of soaps, detergents and cleansers, and was the dominant factor in this market area. In addition, Procter was the nation's largest advertiser. As such, Procter receives substantial discounts from advertising media and enjoys substantial advantages in advertising and sales promotion. It can and does feature several products in its promotions and advertising, thus enabling it to give each product advertising at a fraction of the cost per product that a one product firm would incur. Procter's primary product line, packaged detergents, is used complementarily with liquid bleach, the Clorox line, in washing clothes, fabrics, and in general household cleaning. These products are closely related from the consumer's viewpoint, are low-cost, high-turnover items, and are marketed through the same channels. The court noted that "Since products of both parties to the merger are sold to the same customers, at the same stores, and by the same merchandising methods, the possibility

arises of significant integration at both the marketing and distribution levels." By the acquisition, Procter achieved a dominant position in the relevant market quickly. Retailers might be induced to give preferred shelf space to Clorox since it was a Procter product, and the practical tendency of the merger would be to transform the liquid bleach industry into an arena of big business competition only, with the few small firms falling by the wayside. Further, the merger would seriously diminish potential competition, since prior to the merger Procter was the most likely prospective entrant into the relevant market, and absent the merger would have remained on the periphery. On these, and additional facts, the court held that the Commission finding of a probability of substantial lessening of competition was warranted and ordered the Commission order affirmed and enforced.

13. The foregoing antitrust merger precepts will be taken into account. We shall also consider discussions of the subject such as Turner, Conglomerate Mergers and Section 7 of the Clayton Act, 78 Harv. Law Rev. 1313 (May 1965), which point up some relevant criteria (e.g., whether the market is an oligopoly one; whether the merging firm is at the edge of the market and recognized by those in the market as the most likely entrant, or one of a very few likely entrants, with barriers to entry by new companies or other established firms being significantly higher; and whether the barrier to entry by the firm in question is so high that the price it must expect to obtain before it would come in is above the price that would maximize the profit of existing sellers). We recognize, however, that however helpful such discussions are, the critical considerations are the court's pronouncements and their application to the facts of this case, and specifically, whether ITT, absent the merger, was a likely entrant into this market.

[5298] 14. Turning to the facts of this case, the evidence establishes that ITT became interested in acquisition of television broadcasting facilities some time in the latter part of the year 1963. Numerous studies of the broadcast industry and of individual stations and of group or multiple owners were conducted or received by various officials in the ITT management. These studies included stations and groups of stations

that ITT might be interested in acquiring as well as groups and stations which were apparently included only for background information. The studies included financial data on the television broadcasting industry generally and on all three of the television networks. It is fairly clear from the evidence that, as Mr. Geneen, the executive head of ITT testified, ITT was interested in making "a sizeable entry" into television or none at all. T. 1892. Some tentative inquiries or approaches were made to station owners, but no determined negotiations for acquisition of television properties were pursued by ITT until it began negotiating with ABC.

15. The studies prepared for ITT emphasized that the television market was limited both by the necessity of securing FCC permission to enter and also by the economic limitations of network outlets, advertising, and product or programming. E.G., J-196, J-209, J-219, J-238. A study that was presented to the ITT Board at the time it considered the ABC acquisition stated: "The same station scarcity factors that make ABC's coverage disparity relatively permanent insure that the industry is closed to a fourth network. * * * As a practical matter the number of networks is limited to the present three." (Roth Gerard & Co., report in J-238). The characterization of the economic situation in the television network market as a "two-and-one-half network market" was well known to ITT management. J-219. The responsible officials of ITT testified unequivocally that ITT had no interest at any time in, and no intention of, making an independent entry into the television network market. This was testified to by Mr. Geneen, T. 1837-1838, 2026-2027, Mr. Perry, Executive Vice President and Treasurer of ITT, T. 1439, Mr. Kenmore, ITT Vice President, T. 1236, and is supported by other testimony and evidence. There is a complete lack of any evidence that ITT at any time contemplated independent television network entry, and the evidence is clear and convincing that it did not contemplate such action. We conclude on this record that ITT would not, in any event, have attempted independent entry into the television network market.

16. The Department argues that a company which owns and operates a number of television stations in major markets with-

out network affiliations, and which has the economic resources to do so, "would be a likely potential entrant into networking." Department Findings 1.27. It is known to the Commission, both from its own records and publications of which it takes official notice, that there are substantially more than one hundred [5299] so-called "group owners" of television stations, many of which are companies of very substantial resources, some exceeding those of ITT, and which would be, by this test, "likely potential entrants into networking." See Television Factbook—1967 Edition No. 37, p. 109-a, et seq.; Broadcasting 1967 Yearbook Issue, p. A–159 et seq. Without suggesting any inferences as to their competitive intentions or status, we note that group owners and operators of television stations include such companies as Avco, Capital Cities Broadcasting Company, Chicago Tribune-New York News, Chris-Craft Industries, General Electric Co., Westinghouse Electric Co., Cowles Communications, Hearst, Kaiser, Metromedia, Newhouse, Post-Newsweek, RKO General (General Tire & Rubber Co.). Scripps-Howard, Storer, Time-Life, and others.

17. Applying the standards discussed in paragraphs 9–13, we believe that this merger does not involve any anticompetitive consequences in the relevant market and is not precluded by any of the precedents or principles urged upon us. None of the elements found by the courts in the cases discussed above to indicate a probability of anticompetitive consequences is present in this case. ITT was not at the edge of the relevant market or even among the dozen or more most likely entrants into that market. It did not have any know-how or capacity in the relevant market. It had very limited relations with any of the customers in that market. It had no compelling reason for entering the market. ITT is not dominant in any domestic market, and is not in the domestic broadcasting market at all, either as a manufacturer of transmitting or receiving equipment or otherwise. ABC is not dominant in its market, but, on the contrary, is by far the weakest of three network competitors. ITT and ABC do not do business in the same manner, in the same markets, or with the same customers. ITT will not become dominant in any market by this merger, and this merger will not give ABC dominance in any market. The merger will not

change the nature of competition in the relevant market. Of all the criteria stated or used in the authorities discussed above, the only one that has any application or relevance to the present situation is that the relevant market is oligopolistic because of the economic limitations of the demand for network advertising, the supply of network product or programming, and the technical limitations of network outlets.

18. Whether or not ITT might have entered the broadcasting field as the owner and operator of another group of television stations is not pertinent to the matter here under discussion.[1] The record is [5300] clear and convincing that ITT did not contemplate, lacked the know-how, inclination and incentive, and would not have undertaken an independent entry into the national television network market absent the present merger (or merger with another network), and further that there are many much more likely independent entrants into the television network field. Therefore, under applicable economic and antitrust principles, the merger has no probable anticompetitive effects, involving either actual or potential competition, in the relevant market.

19. The second issue is whether the merger will have anticompetitive effects in eliminating ITT as an entrant into CATV and related activities competitive with broadcasting, and whether this would be contrary to the public interest. The extent of ITT's involvement in CATV or in an interconnecting CATV network as well as in pay-TV was extensively explored during the course of the supplemental proceeding. The evidence is clear that prior to 1964, Kellogg Credit Corporation, an ITT subsidiary primarily engaged in the business of financing sales of ITT equipment to independent telephone operating companies, advanced construction loans for four CATV systems and one microwave common carrier system located in

[1] Despite the Department's acknowledgment that the relevant market is the network television broadcast market, it is urged that ITT might also have contributed to the public interest, simply by becoming a group owner. But no showing has been made how the substitution of ITT for some other group owner (such as Capital Cities, Storer, etc.) would result in any significant benefit to the public interest. The matter of benefit, if any, from such substitution of ITT for a present group owner would appear to be wholly speculative on this record.

various parts of the country, which loans as of March 1967 totalled $1.5 million. The evidence is also clear that from late 1964 through 1965, Federal Electric Corporation (FEC), an ITT engineering service subsidiary, embarked upon a program of expansion into the CATV business in a finance/service capacity, i.e. it would lend money through Kellogg to CATV systems for construction purposes.

20. In 1965, FEC became interested in obtaining stock interests in the companies whose facilities it constructed. Loan commitments were entered into with six CATV systems, in widely separated locations throughout the United States, totalling as of April 1967 approximately $8 million (T. 975, J–335). Although the terms of these commitments were not identical, they generally provided for FEC's receiving as security for the loan first mortgages on the equipment involved, pledge agreements covering all of the stock of the operating company, stock warrants (or in some cases convertible debentures) for future purchases of the stock in the operating company, or arrangements covering first refusal rights whereby FEC might purchase the balance of the stock of the operating company.

21. While various officials at the operating levels of ITT were optimistic and enthusiastic with respect to the potential of CATV, the record establishes that there was increasing concern by ITT's top executives in regard to ITT's involvement in CATV. On October 27, 1965, Geneen placed Vollbrecht, one of his special assistants, in charge of overseeing CATV with instructions to report back directly to him. On November 1, 1965, Geneen called a general meeting to discuss the many problems which were developing from day to day in the CATV field. This meeting was held on November 2, 1965, was attended by a large group of ITT executives, lasted three or four hours, [5301] and resulted in Geneen's placing a freeze upon FEC's involvement in CATV, i.e., FEC was limited to its existing CATV commitments pending future review. A CATV Committee was created with Vollbrecht as one of its members. On January 5, 1966, a recommendation to continue the freeze was made by this committee. Geneen accepted this recommendation and the freeze has never been lifted. FEC phased itself out of CATV activity and turned its unfinished commitments over to a new CATV

Division established under Vollbrecht's authority. At the present time, ITT is making efforts to dispose of its interests in these systems.

22. It is the position of the Department of Justice that ITT's interest in CATV would have continued but for the ITT–ABC merger, that ITT was interested in the possibility of creating a nation-wide CATV network and would have entered into related fields such as Pay-TV to the point where ITT would have provided substantial competition to television broadcasting. The Department contends, therefore, that the proposed merger is detrimental to the public interest since it would eliminate this potential competition.

23. We believe the evidence of record demonstrates that it was the problems which surrounded the CATV industry and not the possibility of a merger with ABC which led ITT, on November 2, 1965, to impose a freeze on new CATV commitments. These problems, enumerated by Chasens, FEC's president, included such matters as the copyright issue, the lease back problem with AT&T in connection with pole rentals, the need for microwave grants subject to FCC regulation, the slow pay back of CATV systems, the fact that there were very few exclusive franchises, the possibility of offending customer telephone companies, the lack of attractiveness of FEC's financial package with Kellogg, the effect of satellite transmission on CATV, regulation by state public utility commissions, and the possibility of FCC regulation of all CATVs (T. 919–923, J–119).

24. The testimony is clear that during the November 2 meeting there was no mention whatsoever of ABC. It was not until November 16, 1965, more than two weeks after this meeting, that Geneen and Goldenson spoke concerning the possibility of resuming the negotiations which had been broken off the previous February (T. 1587–91). The first serious resumption of these negotiations occurred on November 23, 1965 (T. 1810–12).

25. Similarly, it appears that the January 5, 1966 decision of ITT's CATV Committee to continue the freeze was not premised on the possibility of a merger with ABC. Vollbrecht's approach to CATV was strictly on its own merits. He never dis-

cussed this question with anyone at ABC, never discussed with Geneen the effect of ABC on ITT's operations and plans, and did not know or even attempt to ascertain ABC's position [5302] on CATV before the Commission.[2] The evidence indicates that Vollbrecht felt that this was not an activity suitable for ITT because in his view CATV systems are fundamentally local, nothing can be gained by ownership of several systems, each is small, and each requires a lot of management time (T. 994).

26. Nor do we believe there is any substantial evidence to support the Department's position in regard to the possibility but for the merger, of ITT's having created a nation-wide CATV network which would have been competitive with broadcasting. The Department's contention is based upon a June, 1965 "overview" FEC staff memo. But this "think piece" was of course discarded by the January 5, 1966 decision, on the basis set forth in the prior discussion. Further, there is not only no evidence in this record that such a network would be technically or economically feasible, but more important, there are very fundamental policy obstacles. Such a network would require Commission authorization and, as apparently visualized by the Department, would run counter to Commission policy as established in our Second Report and Order, 2 FCC 2d 725 et seq., and the rules promulgated pursuant thereto, particularly Section 74.1107. The future growth of CATV, along the lines suggested by the Department, is also rendered uncertain by copyright developments (see Fortnightly Corporation v. United Artists, F. 2d (C.A. 2d)), and may be largely shaped by

[2] Vollbrecht wrote a CATV status report for Geneen in December 1965 stating, among many other things, "We are aware of the need of cooperation with ABC and plan to work out the details of this as soon as our internal planning has been completed. We also plan to request their audit of our decision to go or no go" (J–126, p. 4). Vollbrecht explained that he would so check with any company in the ITT system which would have an interest or potential interest in the area and was assuming that ABC would become a part of the ITT organization. The reason for the specific check with ABC was because of the latter's expertise in the communications field. Vollbrecht stated, however, that he did not feel a present need to cooperate with ABC, but only felt this would become necessary when and if ABC became a part of the system (Tr. 969–973). This statement is supported by the critical fact that Vollbrecht did not, in fact, check with ABC.

Congressional enactment. See, e.g., H.R. 2512, 90th Cong., 1st Sess. Further, we know that there are hundreds of companies engaged in the CATV business, including a number with resources comparable to those of ITT. This is known to us from our own records, but these facts are also available in standard publications. See Television Digest, 1967 CATV Log; Broadcasting 1967 Yearbook Issue, P. A–122 et seq.; Television Magazine, March 1967 issue. The numerous companies now engaged in the business are ready, willing and able to expand it as fast and as far as they are permitted to do so by Commission regulations and orders and economic demand. In the circumstances, we believe it unrealistic to suppose that the activities of ITT could have any significant effect in expanding the role of CATV as a competitor to television network broadcasting beyond what it will be without the participation of ITT.

[5303] 27. We have carefully considered all of the evidence on this issue and conclude therefrom that the proposed merger has not deterred ITT from entering into CATV or into any related activities. Rather, we find that ITT's decisions in this regard appear to have been made independently as business judgments. Even assuming that at some future time, the decision would be reviewed and reversed by ITT (a very substantial contingency), there are the further contingencies of establishment (1) of a new Commission policy in this area (see para. 155, Second Report) and (2) of a new policy in the CATV copyright field, permitting the importation of distant signals into major markets or combined CATV-wire-pay TV operations in such markets. In short, we have multiple contingencies in this respect, and when this is weighed with the consideration that there are other large firms eager and waiting to enter this area (see above para.), we find that the detriment to the public interest is so speculative as to weigh only slightly, at most, in the public interest determination to be made.

28. The record also fails to demonstrate that ITT had an interest in pay-TV which, but for the merger, might have led it to enter this field. The major evidence in regard to this matter can be found in the statements and writings of Arthur Levey, President of Skiatron Electronic and Television Corporation, which holds a patent upon a pay-TV system. The

record indicates that Levey was seeking a financial backer for his corporation which had already lost approximately $1 million and whose operations in California had been stopped as a result of a referendum which outlawed all pay-TV by wire in that state. The testimony of Chasens and Vollbrecht and documentary evidence such as Appendix B to the Roth Gerard Report (J–238), demonstrate that ITT was never seriously interested in pay-TV.

29. The third issue raised by the Department is whether the integration of ABC and ITT will retard the development and application of technological innovations which would facilitate new entrants into network broadcasting. The technological developments of such nature particularly mentioned by the Department are applications of satellite communications and the development of cable networks. The Department argues that ITT is a leading communications technology firm, that the large investment ITT will make in present networking techniques by acquiring ABC will remove its incentive to develop new techniques, and that the merger will thus have a tendency to retard technological development in the network market.

30. There is no dispute among the parties, the record clearly shows, and the Commission is aware that ITT is a large company with extensive resources in some fields of communications technology, including satellite communications. ITT engages in extensive research and development both in the United States and abroad in telecommunications and other fields of technology, products and services. In this country, ITT is one of the principal contractors with and suppliers to Comsat. However, in this [5304] country ITT is not engaged in the development, manufacture or distribution of any equipment in the field of broadcasting, and ITT has not engaged in or contributed to the development of broadcasting technology here.

31. The Commission is well aware, and standard reference sources of which we take official notice show, that there are literally hundreds of manufacturers of equipment in or related to the broadcast market operating in the United States at the present time. This number includes numerous large companies such as Admiral Corporation, Ampex Corporation, Bell &

Howell, Bendix, Collins Radio, Cornell-Dubilier, Delco Radio Division of General Motors, Eastman Kodak, E. I. du Pont de Nemours, Emerson Television & Radio, General Electric, Kaiser-Cox, LTV (Ling Temco Vought), Lear Siegler, Minnesota Mining & Manufacturing, Motorola, North American Philips Philco-Ford, R. C. A., Raytheon, Sylvania (General Telephone & Electronics), Texas Instruments, Westinghouse, and Zenith, to name only some of the largest, including a number that are larger than ITT. There can consequently be no claim that ITT is one of only a few manufacturers in, on the edge of, or capable of contributing to technology in the broadcasting field, or related fields. In addition, the record makes clear that the basic technology of satellite and cable communication is well known, and that many companies are quite capable of developing and producing equipment for which there is a market demand.

32. As recognized by all those who testified as experts on this subject, the use of satellite and cable techniques for broadcast transmission and dissemination raises broad social, economic and political problems, some of which are now under consideration in Congress and before the Commission. These issues will be resolved by the decisions made by Congress and the Commission, and not by the entry or lack of entry into the field of any single company.

33. We note also that most of the important work and significant technological advances have been the product of large companies with broadcasting interests, of which RCA has been the foremost. See W. Rupert MacLaurin, Invention and Innovation in the Radio Industry (M. I. T. Studies of Innovation, Macmillan 1949); T. 3990 et seq. NBC is, of course, a subsidiary of RCA, and CBS also has a laboratory division which engages in research and development of new technology and products in the field of broadcasting and which produces equipment both for CBS and for sale to other broadcasting stations. ABC is the only one of the three television networks without research, development and manufacturing facilities in its own field. ABC by itself is not in a position to secure substantial research and development work in the field of television technology, either through establishment of its own

research facilities or from some other company for which it is merely a prospective purchaser of equipment. The detailed financial data regarding the ABC television operation which were introduced into the record, examined and analyzed at length, and which are [5305] discussed below, make this abundantly clear. As a result, ABC has secured most of its broadcasting equipment from RCA and is dependent upon RCA, or other suppliers, for its equipment and technology.

34. Prior to the merger agreement, ITT had not engaged in the manufacture, sale or distribution of any broadcast transmission or receiving equipment in the United States. The fact that ITT has not entered the broadcast equipment market in this country and that much of the telecommunications market involving telephone equipment is virtually closed to ITT by reason of vertical integration of operating and manufacturing companies indicates that the economic incentives to enter this market do not exist in the absence of the proposed merger.

35. The testimony of ITT officials, the exhibits, and the actions taken by ITT since the merger agreement are persuasive that merger with ABC will provide ITT with an economic incentive to engage in research and development of technology and manufacture of some equipment that will be of use to ABC and will help to keep ABC in the forefront of technological development in the field. For example, the immediate problem of ABC with respect to audience coverage arises in substantial part from the fact that there are a number of markets (18 out of the top 100, plus many more in the smaller markets) in which there are only two VHF stations. As the older and stronger networks, NBC and CBS have a substantial advantage over ABC both in station affiliations and in clearance of programs in markets with two dominant stations. The spectrum allocation is such that it is not possible to assign additional VHF channels to these markets. However, a large number of UHF channels are available and it is anticipated that ultimately there will be three or more television stations—including both VHF and UHF—in all major markets. But with present technology and equipment the VHF stations generally have a wider range of reception, are more easily tuned on a home receiver, are more economical to operate, and have other operating advantages.

Therefore, the hope of providing three full television network services to all major television markets depends upon the development of UHF technology so that UHF transmission and reception is equal to VHF in all significant respects.

36. This fact has been recognized by both ABC and ITT and both have pledged efforts to improve and develop UHF technology and to utilize UHF station outlets for ABC where that is practical. These statements are not mere pious declarations of good intentions but represent some very specific promises and proposals, which obviously serve the economic interests of the parties. A memorandum by the ITT Technical Director discussing the problems of UHF lists the following projects as technological tasks which ITT can undertake to help solve the problems of UHF and of ABC coverage:

(a) The substitution of high power solid state devices for the present transmitting systems;

[5306] (b) The design of cheaper and more efficient very wide band receiving antennas which will operate over the whole VHF/UHF spectrum;

(c) The improvement of UHF coverage by the application of technical know-how to transmitter site selection;

(d) The improvement of technology to fill in UHF shadow areas and to provide improved UHF translators;

(e) Automation of transmitting equipment to help reduce UHF transmission costs and thus help to equalize it economically with VHF;

(f) The development of a new type of foam dielectric cable which will reduce the transmission loss over the whole UHF band down to the levels of the VHF band;

(g) The development of a complete set of components which will provide television receivers with electronic tuning and give identical performance for all VHF and UHF stations, with push button tuning for all stations.

The memorandum claimed that ITT had completed the design of the varactor diodes, which are the tuning elements in the system, and that it is the only company making varactors with adequate performance over the whole frequency band. J–262. The memorandum also stated that the ITT laboratories would be used to solve many of the other immediate problems of ABC

and to provide technical know-how to help lead broadcasting into such possibilities as direct television broadcasting from satellite to home, utilization of modulation techniques, such as pulse code modulation, the development of large screen, three dimensional television, microminiaturization of studio and transmission equipment to allow convenient coverage of all types of dispersed news or national events, and the development of techniques of broadcasting hard copy printouts, such as newspapers to the home.

37. Based on the past and present state of the market situation in broadcasting and related fields, there is little, if any, likelihood that ITT will develop new technology or products for the American broadcasting market if it is prevented from engaging in this merger, whereas it will have a strong incentive to undertake technological research and development in these fields if it is permitted to merge with ABC. Considering also the technological and financial capability of ITT, which all parties concede, and the specific projects and tasks which it has already initiated or planned in order to meet the technological problems of ABC and to advance the technology of broadcasting in anticipation of this merger, we conclude that the merger will greatly strengthen ABC technologically, will produce increased research and technological development in this field by ITT and thus will result in significant and important technological advances that the American public might [5307] otherwise be denied. We further stress that representations by ITT of technological development in the UHF field are regarded as binding, for the critical period ahead, and we have conditioned our action today to assure their effectuation.

38. From the viewpoint of competition in technology, it seems apparent from the record that the merger will result in the entry of ITT into the market of broadcasting equipment and technology in this country for the first time. Thus the merger will bring additional and increased competition to the technical side of the television broadcast market. It is impossible to determine from this record, and no doubt the parties themselves cannot predict with any assurance, how far ITT will enter the American market for broadcast equipment. However, in the UHF field, that entry must be substantial (see par. 37,

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supra), and any entry by ITT into this market will bring an additional competitor and an increase in competition. Consequently, with respect to this aspect of the case we conclude that the evidence permits no conclusion other than a benefit to the public interest, however viewed, from the proposed merger.

39. The fourth issue is raised by the Department's contention that the proposed merger is likely to eliminate the independence of ABC in regulatory proceedings and commercial situations. The Department argues both that the ITT form of organization will prevent ABC independence and that the interests arising out of the relationship will preclude an independent position by ABC.

40. The evidence supports the conclusion that the ITT organization generally operates with centralized controls, particularly in financial matters, over the ITT subsidiaries. An oversimplified description is that ITT subsidiaries operate through their own officials, or line personnel, but are subject to coordination or supervision by ITT staff officials who intervene between them and the top ITT executives. However, the evidence is clear and uncontroverted that the usual relationship between ITT and its other subsidiaries will not be the pattern for the relationship between ABC and ITT. ITT recognizes and emphasizes that its relationship to ABC will be "unique," and the officials of both companies have undertaken to establish a relationship based upon contract between the parties and upon explicit representations and assurances to the Commission to insure the independence of ABC after the merger. In the light of these circumstances, the relationship between ITT and its other subsidiaries is not controlling or particularly significant, and it becomes necessary to examine the proposed relationship between ITT and ABC.

41. After the merger, the membership of the ABC Board will remain the same with the addition of two ITT officials, Mr. Geneen and Mr. Perry. The ABC Board will then number 16. The ABC Executive Committee will be [5308] expanded to seven by the addition of Mr. Geneen and Mr. Perry. The present ITT Board of 16 will be increased by four; two of whom will be Mr. Goldenson, President of ABC, and Mr. Siegel, Executive Vice President of ABC, plus two more ABC Directors des-

ignated by ABC and approved by ITT who are not employees of ABC. The ITT Executive Committee of 10 members will be expanded by three to include Mr. Goldenson and the two ABC Directors designated by ABC. The contract of merger provides that the members of the ABC Board, Executive Committee and management, as constituted immediately after the merger, will be maintained for a minimum of three years, except in the event of refusal or inability of an individual to serve, or unless there is material deterioration in the business or financial position of ABC in relation to the broadcasting and theater industries. It is intended that the arrangements between ABC and ITT will continue indefinitely although the contractual obligation is for three years.

42. After the merger, seven of the 16 members of the ABC Board will be directors of both companies and officers of one or the other; and nine members of the ABC Board will be "outside" or "independent" directors who are not employees of either company. The Broadcast Bureau suggests that the addition of two of these independent directors of ABC to the ITT Board will result in the ABC Board having nine members who are affiliated with ITT and thus having less than a majority of independent directors. However, we believe that adding two of the ABC independent Board members to the ITT Board does not compromise the independence of such directors. The independence of these Board members derives from the fact that they are not employees of either company, that they are not involved in the day to day operations of either company, that they have independent business status and associations outside either company, and thus that their judgment as directors will have a freedom and freshness that may be different than the viewpoint of corporate executives or employees. The fact that two of these independent directors will become familiar with the overall problems of both companies will not impair their independence, and they may have added prestige and influence as members of the ITT Board which may serve to enhance the independence of ABC. Moreover, we know as a matter of common knowledge and experience with such organizations, that matters of major concern to companies of this kind are not resolved by a bare majority of votes on the Board

of Directors. Generally, as was repeated throughout the testimony, the answer to particular problems is dictated by the facts ascertained by those charged with responsibility for decision. Where the facts do not show a conclusion clearly enough to secure a consensus among the directors, prudence in discharging the fiduciary duties of the directors would suggest the necessity of securing further information before reaching a conclusion.

43. With respect to the consideration of specific problems and matters it was clear from the testimony of both Mr. Goldenson and Mr. Geneen [5309] that they are in complete agreement as to the desirability of full cooperation, and intend and expect to maintain such a realtionship that problems will be resolved by investigation, consideration and agreement. The ABC budget is regularly and automatically considered and approved by the ABC Board, and this will continue. Only extraordinary expenditures, such as expansion of ABC into a new field or expenditures of tens of millions of dollars for new facilities, would be referred to the ITT Board. In any event, there will be no group executive between ABC and the ITT Board, and the President of ABC and other members of the ABC Board will have direct access to the ITT Board. The testimony of all those involved is clear that ordinary ABC operations will continue to be conducted and directed by the ABC organization as at the present, and that only extraordinary matters will be referred to the ITT Board. Common sense and common knowledge of corporate organization and operations tell us that a Board of Directors of an organization such as ITT cannot and will not be concerned with matters of detail or with supervision of business operations. Consequently, the form of organization which will be adopted which permits ABC to operate subject only to supervision by the ITT Board is some assurance that ABC will continue to operate with a substantial degree of autonomy.

44. The relationship between ABC and ITT and other subsidiaries of ITT with respect to possible areas of conflicting interest was stated in writing in an ITT Policy Guide issued November 1, 1966. AR–4. This policy statement may have particular significance since it was issued after the first Commis-

sion hearing and before there was any intimation that the Department might seek to intervene in the Commission proceeding or challenge the proposed merger. Thus this policy statement does not appear to have been formulated or issued with any view to its evidentiary effect in these or other proceedings. The policy of ITT with respect to ABC activities in this field is stated as follows:

> The network and broadcasting operations of ABC shall be kept separate from other ITT operations and shall be carried out by its duly appointed officers and employees whose performance will be measured solely on the basis of the results of those operations. The operations of ABC as a broadcast licensee shall be performed unaffected by commercial, communications, or other similar interests of other ITT system companies or groups. Thus for example, if in the opinion of ABC management, charges proposed for communications services by ITT World Communications, Inc., are subject to protest to the FCC, such protest shall be filed and vigorously maintained until disposed of by the Commission. Similarly, ABC shall independently determine its position on particular satellite or other communications [5310] questions and present its views to the FCC as to how the Commission should resolve such issues, and any other interested ITT System company or group shall similarly formulate and present its views to the FCC or to other Governmental bodies or agencies considering the question without regard to the interests of ABC as a broadcaster.

As a matter of record in this proceeding, ITT committed itself to advise the Commission in writing in advance before any change is made in the policy statement regarding the relationship between ABC and ITT of which the foregoing is a part. T. 3285. The Commission is relying on the policy statement of ITT regarding ABC issued November 1, 1966, in its consideration of and action upon these applications. In view of all these circumstances the Commission concludes that it may reasonably rely upon this statement as a statement of the independence of ABC in these matters.

45. In any event, even were we to assume, arguendo, that ABC will not operate with the claimed degree of autonomy over the long run (or in the coming years), that consideration does not raise the spectre of substantial detriment to the public interest. The top management of ITT is of such character and ability that their participation in ABC's important policy discussions will be a plus, not a minus. And while there would be countering adverse consequences, analysis shows that they are not of a substantial nature. The issue raised by the Department with respect to ABC independence is stated in terms of independence in regulatory preceedings and with respect to commercial bargaining. However, all of the specific matters referred to in the argument concern matters, such as common carrier rates, which are subject to determination by the regulatory action of this Commission. In the Commission Decision we noted the possibility of conflict between the broadcasting interests of ABC and the common carrier interests of ITT. The Decision pointed out that such conflict related only to international operations, since ITT is not a domestic common carrier, and that the overwhelming proportion of a domestic network's common carrier usage is domestic, not international. On consideration of all the factors involved, the Decision concluded that there might be an area of conflicting interest. Decision par. 37. Based upon the supplementary record and proceedings we agree that there is a possible area of conflict. But any detriment here to the public interest is not of a major nature because of the small area of conflicting interest.

46. The Department now argues also that in some general way ABC may be limited in seeking technology, equipment and services. The Department asserts that, ". . . if large users of communications technology are integrated with technology firms, the result will be a lessening of competition in important areas of research and development related to broadcasting." Department Brief p. 52. One answer to this argument is that the experience of the past is clearly to the contrary. The advances in broadcasting and communications technology in this country have been [5311] made by firms which were integrated organizations of communications operating firms and research and manufacturing enterprises in communications

technology. The Department itself has accepted this view by its course in the telephone field. By consent decrees and other action or inaction indicating acquiescence, both over the years and during the period of pendency of this proceeding, the Department has permitted the telephone research and equipment manufacturing industry to be integrated with the telephone operating companies in this country to a degree that forecloses well over 90% of the market to any entry by an "independent" company, such as ITT. This market is vastly larger than the market for broadcasting equipment and technology, yet, as previously pointed out, there is a considerable amount of competition left in the broadcasting equipment field, which will be increased, rather than decreased by the proposed merger in the circumstances disclosed by this record.

47. No other situation is suggested by the Department, disclosed by the record, or occurs to us in which there is likely to be any conflict between the interests of ABC and ITT in a commercial situation. The record makes clear that all ITT subsidiaries are expected to purchase equipment, supplies, technology and services where they can do so most economically and efficiently from the viewpoint of their own operations, without regard to other ITT affiliates. The specific independence of ABC in this respect is included in the policy statement referred to above. In all other matters that are of immediate and direct concern to this Commission and the public interest it appears that the interests of ABC and ITT will coincide rather than conflict. It is clearly to the interest of both companies to have a strong, efficient, economically operated and technologically advanced television network. Neither company can afford to permit ABC to lag behind in utilizing whatever advanced technology may be developed. Indeed, one of the most important aspects of the proposed merger is that it will permit ABC to cope with advancing technology and maintain a competitive position which it might be unable to do otherwise. The assurance of financial strength and stability and the availability of strong and extensive research and technological capabilities are likely to strengthen the independence of ABC in commercial situations, as compared with its present position

of dependence upon its competitors for technology and equipment.

48. The fifth issue raised by the Department is the contention that the merger is likely to create obstacles to competition in the television advertising market—presumably the national network television advertising market, since that has been recognized by all parties as the obviously relevant market. The Department argues that the potential effects of the merger in the field of television advertising may be through "the foreclosure of ITT's advertising expenditures and the foreclosure of television advertising placed by ITT's suppliers." Department Brief p. 53. This is explained to mean that ITT subsidiaries may be induced to place their advertising with ABC, rather than with some other television network, [5312] and that the "merger also gives rise to the opportunity for substantial reciprocal dealing between ABC and the suppliers of ITT." The Department argues that "no coercive reciprocal program need be adopted" by the parties and that a "market structure" which gives rise to an opportunity for reciprocal dealing creates sufficient anticompetitive effects to condemn the merger.

49. The Department relies upon three cases as legal authority for its position on this issue. These are F.T.C. v. Consolidated Foods Corp., 380 US 592 (1965), United States v. Ingersoll-Rand, 320 F2d 509 (CA 3rd 1963), and United States v. General Dynamics, 258 FSupp 36 (SD NY 1966). Each of these cases contains dicta which can be quoted to support the argument of the Department. However, these dicta are, as in all cases, uttered by the courts in the context of the facts before them in the specific case, and examination of these cases shows that none of them is apposite or even closely similar to the situation before us. In the Consolidated Foods case the Supreme Court held that the evidence sustained a finding by the FTC that the merger of a company engaged in the manufacture and sale of food in the United States market with a company manufacturing dehydrated onion and garlic in this country violated Section 7 of the Clayton Act. The court said that the reciprocity made possible by the merger was one of the anticompetitive practices at which the antitrust laws were aimed. The court held that the evidence of reciprocal dealing was plainly sub-

stantial, that the industry structure was peculiar, that reciprocity was tried over and over again by the merged companies and that it worked. The court also warned, "The 'mere *possibility*' of the prohibited restraint is not enough . . . Probability of the proscribed evil is required, as we have noted." 380 US 598 (Emphasis in original.)

50. United States v. Ingersoll-Rand, supra, was an appeal from an interlocutory injunction against consummation of a merger prior to trial on the merits. The Court of Appeals sustained the interlocutory injunction. It noted that the preliminary showing was that the acquisition, if consummated, would give Ingersoll-Rand the broadest line in the relevant market, which was the coal mining machinery and equipment field. Further, Ingersoll-Rand contemplated other acquisitions which would substantially reduce the number of suppliers of coal mining machinery and which would place under its control companies which had accounted for and would account for a very substantial share of the total industry output in three significant lines of commerce. These, and other facts of record, might create a sales advantage to Ingersoll-Rand in making it possible for that company to make "package deals." The court held that this record indicated sufficient probability of a lessening of competition to warrant an interlocutory injunction pending trial. It might be noted that in the present proceeding the Department has had the equivalent of an interlocutory injunction in the stay which the Commission has granted, and that the Commission is now confronted with the necessity of reaching a determination on the merits on a full record.

[5313] 51. United States v. General Dynamics Corp., supra, was a case in which the Department brought a civil antitrust action against a corporation which had merged with another corporation on the ground that the merger had resulted in reciprocity in trading in violation of the antitrust laws. The court held, after trial, that the evidence sustained the charges and directed divestiture. The detailed opinion of the court in that case shows purpose, plan, organization, action and effective results in securing reciprocal purchasing which are so elaborate and so far removed from anything even hinted at in the present proceeding that there can be no comparison between

the cases. In General Dynamics the court found that prior to the merger "there was a meeting of the minds as to the use of reciprocity," and that the opportunities for reciprocity were "the most significant advantage to be derived from the merger" by the acquired corporation. General Dynamics had a "trade relations department" the purpose of which was to increase sales through reciprocity. The court found that defendant intended to use and did use the reciprocity power created by the merger, "that both parties had the intent, at the time of the merger, to employ the anti-competitive device of reciprocity to generate sales," that substantial amounts of commerce in the relevant market were affected, and that this had the effect of substantially lessening competition.

52. In the present proceeding there was no evidence whatever that a probable consequence of the merger would be foreclosure of the purchase of advertising from other national television networks, either by other ITT subsidiaries favoring ABC or because of reciprocity between ITT and its suppliers. The argument of the Department is based entirely on the "possibility" of such a consequence, which the Supreme Court has specifically stated is not a sufficient basis for such a conclusion. The evidence in the present record strongly tends to show that the proposed merger will not result in the practice of either external or internal reciprocity.

53. The record shows that ITT television advertising is minuscule in relation to the market. Of total television advertising in 1965 amounting to more than $2 billion, ITT purchased $523,000, or about .025%. In 1966 ITT television advertising increased to approximately $1,725,000 and it was estimated that it would increase to as much as $3 million in 1967. However, the total volume of television advertising is increasing, amounting to approximately $2.5 billion in 1966. Broadcasting, March 20, 1967, p. 40B. It is apparent that ITT does not represent a large television advertiser or control a substantial proportion of this business. It is also significant that none of the ITT television advertising is national television network advertising, and therefore regardless of amount or substantiality there is no showing of even the possibility of any effect in the relevant market from the control of this advertising.

[5314] 54. The evidence with respect to the possibility of the use of reciprocity power on ITT suppliers consists only of a list of ITT's major suppliers within the United States. Of the 12 suppliers of more than $1 million of goods or services to ITT in 1966, only six were substantial purchasers of television network time. These six were General Motors, Ford Motor Co., Chrysler Corporation, American Motors, Dupont and Gulf Oil. Each of these companies spent more on television advertising than the amount which ITT purchased from them, and the economic facts do not suggest that ITT would have or be tempted to use any economic power to influence the television advertising of these companies.

55. The record is not only totally devoid of any evidence that either ITT or ABC has ever engaged in reciprocal dealings with suppliers, but shows positively that ITT has an established policy against such practices. ITT system purchasing functions are completely decentralized with the purchasing manager in each system company responsible for procurement and delivery of goods and services at the most competitive price. Each operating subsidiary's purchasing orders are placed locally and its purchasing records are kept locally. In order to comply with a Department request for a list of major U.S. suppliers, ITT was required to make telephone calls to a number of purchasing locations. So by the very nature of the ITT method of functioning and organizing its business it would be difficult to accumulate the information necessary to learn where reciprocity power might be employed, and it would be difficult, at best, for any one subsidiary to exert any leverage by its individual purchases. Moreover, to secure any reciprocity significant in terms of the proposed merger would require a number of ITT subsidiaries to act in concert to foreclose advertising from other television networks. This would be a violation of the antitrust laws. Timken Roller Bearing Co. v. United States, 341 US 593 (1951); Kiefer-Stewart Co. v. Joseph E. Seagram & Sons, Inc., 340 US 211 (1951); United States v. Yellow Cab Co., 332 US 218 (1947); Schenley Industries, Inc., (FTC, Oct. 25, 1965) Trade Reg. Rep. par. 17353, 22251. On a record which contains only evidence to the contrary, we cannot presume that these companies will engage in practices

which violate the law. We also note that such action would be subject to prosecution by the Department, and would expose ABC to the sanction of license revocation or denial of renewal.

56. The nature of the supplies and products sold and purchased by ITT also militates against the possibility of the use of reciprocity in the television network market. ITT is engaged largely in the production of industrial products and services, whereas television is a medium oriented to the advertising of consumer goods and services which are subject to mass consumption. The limited number of ITT suppliers that are substantial television advertisers is noted above. The Department argues that ITT is moving into fields of consumer goods and services and that its television [5315] advertising is increasing. It asserts that this is evidence of the possibility that the merger may result in some undue or illegal advantage to ABC in television network advertising. As the trial court remarked in the Penn-Olin case. "Anything is possible." However, since the record here shows that ITT has not yet engaged in any television network advertising, such a possibility is so remote that it clearly falls below the level that entitles it to recognition in the kind of reckoning that the courts have approved for judging antitrust cases or that this Commission should follow in determining the public interest.

57. The policy guide issued by ITT on November 1, 1966 specifies in clear and explicit terms the determination of the company to avoid the practices that have been found objectionable in the cases cited by the Department. On these points, that document (AR-4) states:

> No officer, employee, or agent of any ITT System company or group shall take any action or make any attempt to influence in any way whatsoever, or to interfere with, advertising by any other company or person on the ABC network or stations.
>
> Any and all advertising purchased by ITT System companies or groups from the ABC network or stations shall be on a complete arm's length basis, and on terms no more advantageous or preferential to such associated companies than for any other purchaser of facilities from ABC.

For reasons stated above in paragraph 44, as well as for the various other reasons stated in the foregoing discussion, we believe that this statement fairly presents the policy with respect to advertising that will in fact be followed by ABC and ITT in their relationship. In sum, and for the reasons set forth in the above discussion, we find no detriment to the public interest on this issue.

58. A substantial part of the supplementary hearing and proceedings was devoted to exploration of the issue of ABC's need for financial support in order to maintain its television service and improve its competitive position, and of the possible sources of the additional funds that are plainly needed by ABC. The Department claims, in substance, that ABC exaggerates its financial needs and that, in any event, ABC can secure the funds it needs from sources other than ITT. ABC made it plain that it does not claim to be a "failing company" within the meaning of the "failing company doctrine" of antitrust law. *See International Shoe Co.* v. *F.T.C.*, 280 US 291, 302–303 (1931). ABC does not claim that it cannot borrow or otherwise obtain funds to remain in business. It does claim that without the funds for new facilities and for programming, especially for feature films, it cannot close the gap which exists between [5316] it and the other television networks, NBC and CBS, and will be unable to maintain its present competitive position to the detriment of the public interest. Its counsel at the hearing said that the issue came down to the question, "Is this company, which is one of the three vital networks in the United States, to be put in such a position that it cannot exercise sound business judgment for the benefit of the company because it is in hock up to its ears all the time?" T. 4173.

59. The record conclusively demonstrates that ABC has been at a competitive disadvantage in relation to the other networks, that its television operations have been handicapped by this disadvantage, and that the gap between ABC and the other networks has been increasing. Whereas in 1961 the ABC television network had gross revenue of $161 million, this was $21.8 million less than the average gross revenue of CBS and NBC. (For purposes of disclosure in the record the average of NBC and CBS was taken rather than the individual figures for

either network.) By 1966 the revenue gap between ABC and the other two television networks had grown to $80.7 million, which is almost a fourfold increase. The disparity in earnings has been even greater. In 1961 the ABC television network had a pre-tax profit of $4.7 million compared to a CBS–NBC average profit of $10 million. Beginning in 1963 the ABC television network has lost money each year. By 1966 the loss amounted to $9 million, and the profit gap between ABC and its two television network competitors had increased from $5.3 million in 1961 to $52.9 million in 1966, a tenfold increase.

60. During the last four years the ABC television network has lost a total of $27.6 million, and has shown a loss each year increasing from $4.6 million loss in 1963 to $9.0 million loss in 1966. During the last six years the ABC radio network has lost a total of more than $20 million, and has shown a loss in every year. During the same period the ABC owned and operated radio stations have shown some profit, but the profit of the radio stations has not been as great as the losses of the radio network. During the six year period, the radio operation, including the network and the owned and operated stations, lost a total of $10.9 million. The ABC owned and operated television stations have shown a profit each year which has been sufficient to make the total television operation profitable. However, the television profit has not been increasing. In 1960 the profit from the ABC television operation of both network and stations was $20.5 million. The television profit was less in each subsequent year and decreased to a low of $11.6 million in 1963. After that it increased and reached $20.4 million in 1966. BB–1. Thus, over the six year period from 1960 to 1966, when television costs have been increasing rapidly, the ABC television profit has not increased at all. During the same period the profits of the other two networks have considerably more than doubled. The entire profit from the ABC broadcasting operation has been put back into that operation in an effort to maintain technological and programming quality, and no money has been taken out of the broadcast operation for the payment of dividends, the servicing of loans or other similar corporate expenses.

[5317] 61. The reason for the financial need of the broadcast operation of ABC, particularly the television network operation, is the tremendous and increasing cost of television programming and equipment. Television network programs cost about $100,000 an hour to produce. ABC is now spending $135 million annually for the production of television programs. The presentation of feature films and of live variety programs, which is increasing on all networks, is increasing the cost of program production substantially. Further, it is necessary to invest very large amounts long in advance of realizing any return. In order to be competitive it is now necessary in most instances to buy feature films three years in advance, which, in effect, means paying for them at least two years in advance. It is necessary to have 40% of the annual programming cost available at all times to finance producers. Color production is another substantial cost, but up to the present time color programs have not brought in any additional revenue. Therefore at least in the immediate future this is not a revenue producing investment. Nevertheless, it is clearly necessary to enable ABC to remain competitive.

62. Public service programming, particularly in the entertainment and news fields, is often the most expensive and the least profitable. "Stage 67," which was an ABC venture into cultural programming, represented an effort at improving the quality of television entertainment. "Stage 67" cost nearly $10 million to produce and resulted in a net loss of $4 million. News broadcasts and public affairs programs are loss items. In 1966 ABC lost $18 million in the production and presentation of news and public affairs programs. Preemptions for such programs cost the company another $1 million. The 1967 budget of ABC for television news is $30 million, plus another $3 million for radio news. It is estimated that in 1968 the budget for television news will go to $40 million—if the money is available. It is clearly in the public interest to insure that the ABC television network is permitted to operate in circumstances that will best allow it to fulfill its public service obligations by the presentation of news and public affairs programs and other quality television programming.

63. The problem of maintaining and encouraging television network competition has concerned the Commission for many years. In the early 1950s there were four television networks, and Dumont failed and went out of business in 1955. In 1967 a new venture, the United television network was established, began operation, and then failed and went out of business. ABC has continuously been at a competitive disadvantage.

[5318] 64. In January 1960 the Commission initiated proceedings looking toward a means of providing more nearly equal competitive conditions for ABC. Docket No. 11340. These proceedings led to further proceedings in which the Commission sought to equalize conditions in "nationwide network competition" in television by adding VHF facilities in a number of the larger markets that provided outlets for only two networks. The addition of such VHF facilities were called "drop-ins," and they would have been in derogation of the engineering standards that the Commission had previously established for television. The Commission finally decided that in view of the possibility of developing UHF facilities the derogation of VHF engineering standards was not warranted, and therefore it did not make the "drop-in" assignments and left the competitive situation as it was. Report and Order re VHF Drop-ins, 25 RR 1687 (May 31, 1963). The decision was a close one. Three Commissioners joined in the Commission opinion. Then Chairman Minow concurred in a special opinion in which he said that the fact that ABC is at a competitive disadvantage "has adverse national as well as local effects on the public interest" and urged that the Commission was required to act promptly to secure competitive equality for ABC in some other manner. Id., 1696 et seq. Commissioner Cox dissented, arguing strongly that the provision of competitively equal facilities to permit the development of three fully competitive national television networks is of great importance, and that "all the people in the country suffer when the ability of one of the major national program sources to provide competitive programming is impaired because of artificial

restrictions on its access to important numbers of television homes." Id., 1700.[8]

65. The situation has not substantially changed since that time, and ABC has continued to be at a competitive disadvantage in the television network market. In a supplementary paper to the recent report of the Carnegie Commission on Educational Television the Department's expert witness Goldin stated: "Up to now, however, the method of channel assignment has been such that only two national networks could be fully accommodated, with less than complete facilities available to air the programs of the third network." Public Television: A Program for Action (Bantam Books ed., 1967) p. 227; T. 3076.

[5319] 66. Thus for many years this Commission has been aware of the competitive disadvantages of ABC, of the adverse effects these have had on the public interest, and has been seeking means of providing a greater degree of competitive equality. Unfortunately the Commission has found many of the proposals made to help ABC to be impractical because they would involve derogation of technical and engineeirng standards. However, the Commission cannot escape the necessity growing out of its own past actions and decisions of seeking some means of permitting ABC to attain a greater degree of competitive strength, or equality, without imparing or sacrificing the standards of television transmission and reception which the Commission has established and seeks to maintain.

67. There can be no doubt that the competitive position of ABC today is worse, in some respects, than it has been in the

[8] The drop-in problem came before the Commission again on reconsideration following the resignation of Mr. Minow and the appointment of Commissioner Loevinger. The position of the other six Commissioners remained unchanged. and Commissioner Loevinger cast the deciding vote against reconsideration on the basis of a special concurring opinion in which he said that he thought the dissent of Commissioner Cox was more persuasive than the original decision, and that he thought he would have voted with Commissioner Cox had he then been on the Commission, but that he voted against reconsideration because of the importance of stability and consistency in the actions of an administrative tribunal, and because he thought that a decision should not be reversed merely because of a change in membership of the agency. Memorandum Opinion and Order re VHF Drop-ins, 1 RR2d 1573, 1580 (December 23, 1963).

past. The advent of color television and the increasing costs of programming have imposed great financial needs which ABC is less able to meet than its competitors. It is clear that the ABC studios, production facilities and technical equipment are significantly inferior to those of the two competitive networks. The Department attempts to suggest that the ABC plans for colorization and modernization of its plant and equipment were merely afterthoughts, devised to convince the Commission of the desirability of the merger. We do not agree with this contention but do not find it necessary to decide that matter. The record of the supplementary proceeding establishes beyond any real dispute that ABC faces rising and substantial expenditures for both capital and operating requirements. Some of these are supported by detailed and voluminous itemized schedules. While it is always possible to raise questions about particular items in such lengthy schedules, it would appear that these financial forecasts and their supporting schedules represent responsible business judgments.[4]

[5320] 68. However, delineation of the exact amount of the required expenditures is not crucial to our decision. It is sufficient to note that they are substantial. Turning to the method of securing the finances for these substantial expenditures, we find that the record is persuasive that the required expenditures cannot be financed from ABC's cash generation. While ABC is already heavily burdened with senior debt, there is a substantial dispute as to whether ABC, as a practical matter, must rely on the merger for such financing, or whether it could secure significant parts of its requirements by various other methods of financing. There is no question but that the necessary funds could be most readily available through the merger, without any possible drawbacks such as loan limitations or

[4] The evidence indicates that the largest and most significant of these are broadcasting division property and equipment expenditures. These include the committed and pending costs of converting existing facilities to color and developing new complexes in New York and Hollywood. Additionally, there are projected expenditures for new broadcast program right commitments and for motion picture investments. It appears clear to us that these expenditures have been dictated by the industry-wide trend to color, the obsolescence of ABC's present production plant, and the necessity of providing high quality and competitive programming.

curtailment of operating flexibility. But analysis of the supplemental record does not permit a definitive resolution of this particular facet, i.e., whether or not alternate financing is available as a practical matter and in a way not unduly inhibiting ABC's future operations.

69. In any event, it is, we think, unnecessary and inappropriate that our determination of this issue turn solely on the above facet. For it is clear that ABC, which as the "third network" lags behind its two competitors, will be significantly aided by having ITT's financial strength back of it, in such matters as its attempts at cultural programming innovation, news and public affairs expansion, ability to chance more or sooner primary affiliation with UHF stations. Adverse developments in these areas or new technological developments could be a most serious matter to ABC, if it were to shoulder new substantial financial burdens in addition to its already high debt ratio. Such an atmosphere would not appear conducive to risk in the public interest areas we have described. And, as shown by "Stage 67", there are, and will always be, considerable risks in these important public service areas.[5] In short, we think it desirable to promote the best possible environment for ABC operation, both to serve the public interest and to compete with CBS and NBC. Merger with ITT, a large diversified company with strong financial resources, does promote that environment, by making available the funds with which to

[5] An illustration of both the significance of broadcast news reporting and of the burden it imposes upon the networks has occurred during the Commission consideration of this proceeding. The point is well summarized in a report by Jack Gould, the New York Times television critic, entitled "TV: Spotlight on Crisis," New York Times, June 8, 1967, p. 87. Mr. Gould says, inter alia: "All regular entertainment programs and commercial announcements were cancelled Tuesday night by the three national television networks to carry the debate in the United Nations Security Council on the war in the Middle East. The sustained coverage was a notable public service by the American Broadcasting Company, the Columbia Broadcasting System and the National Broadcasting Company. * * * The total cost to the networks in the cancellation of an entire evening's schedule ran into the millions of dollars, though some of the revenue may later be recaptured. But the telecast constituted one of television's finest achievements. If a viewer was not aware of the dimensions of the Middle East situation at the end of the evening, it was his own fault, not television's."

take the risks and make the judgments necessary for the forward progress of ABC's news, public affairs, entertainment and other similar programming or related endeavors. Thus, Mr. Elmer Lower, President of ABC News, stated that greater economic resources would increase, rather than decrease, the independence of the news gathering organization.

70. The point which has been made above that news and public affairs programs are not profitable and that the ability of a television network to produce and present such programs depends in large part on its financial prosperity and resources [a] is of particular importance in this proceeding. If, in the judgment of Mr. Friendly, NBC is in a more advantageous position than CBS in this respect because of the financial strength of RCA. despite the fact that the CBS television network is highly profitable, it is obvious that ABC is at a tremendous disadvantage. Finally, that the heightening of competition between the networks will serve the public interest needs no exposition. Therefore, based on our knowledge of the industry and the present network situation, we find on the supplemental record that there will be a significant benefit to the public interest in this respect.

71. With the resources and backing of ITT, ABC will in a certain number of markets be able to foresake reliance

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[a] This point was made in a book by one of television's most widely known critics, Mr. Fred Friendly, recently head of CBS News, Mr. Friendly has written:

> Another factor influencing news budgets—and therefore decisions—is that NBC is owned by the Radio Corporation of America; though the network is a highly profitable part of this giant complex, it represents less than 25 percent of RCA's net earnings. The CBS television operations are estimated to represent as much as 71 percent of the parent company's profits; therefore, $1,000,000 spent in news coverage by CBS may affect profits proportionately more than the same expenditure by NBC affects RCA. Furthermore, RCA, which make a great deal of money from color television sets and television tubes, prospers from 'loss leader' activities—that is, money-losing programs which increase the sales of television sets, NBC also carries prestige programs which the RCA corporate family can afford, whereas at CBS the television divisions of the company provide its main profits. Fred W. Friendly, Due to Circumstances Beyond Our Control . . . (Random House 1967) pps. 166–167; T. 3302–3304.

upon secondary clearances on VHF stations in favor of primary affiliations with UHF stations (T. 4131, 4176). We take this representation as a commitment that must be carried out; we will require reports at year intervals for at least three years following the merger as to ABC's actions to carry out this commitment.

[5322] 72. In addition, as noted, the merger will provide the additional benefit of technological support to ABC. The record contains ample evidence that ITT has substantial capability in the field of communications technology which it can and has committed itself to use in order to meet ABC's needs. Further, as a result of the merger, ITT has embarked upon a program to aid the development of UHF. The Department has questioned the duration of the program. The short answer is that we again regard ITT's representations in this respect as a commitment that must be fulfilled. We shall require the submission of annual reports for the three years following the merger, giving detailed accounts of the nature and extent of ITT's efforts, including the amounts expended and planned to be expended. The type of activities required are those already delineated in great detail by ITT (see par. 36. supra) and those of a similar nature arising in the specified three year period. We are at a watershed on the development of UHF broadcasting, and ITT's contribution to the achievement of the goals, upon which Congress and the American public (through the purchase of all-channel sets) have staked so much, will be made at this crucial time.

73. An important issue raised in this proceeding concerns the integrity of the ABC television network news operation. This issue was considered in some detail in the Commission Decision, but the Department contends that additional evidence received in the supplemental hearing raises serious doubt about the conclusions previously reached by the Commission. The Department argues that the merger threatens to impair the integrity and independence of ABC's activities in the news, information and public affairs field. The ACLU has tendered a statement as amicus curiae which we will receive and which we have considered. Essentially the ACLU reviews the proposed findings of the several parties and relies upon those advanced by the De-

partment to urge the same arguments made by the Department. The ACLU statement admits that there are "differences within the councils of the ACLU itself" on this case, and concedes that there may be advantages to the public interest in increased size of a television network. These advantages are stated by the ACLU to be that there may be resources for putting on the air programs that will exceed in quality and diversity what might otherwise be produced, and that there may be resources with which to resist pressures that would keep off the air what might otherwise be produced. However, on balance the ACLU fears that the dangers envisioned by the Department are more threatening than the advantages urged by the applicants. and therefore supports the Department position. However, the ACLU candidly faces the consequences of this position and urges further that if the Commission finds that ABC is competitively disadvantaged by its resources in relation to its competitors, then the Commission should proceed to restructure the industry. The Broadcast Bureau expresses its concern about certain incidents, referred to below, but proposes the overall conclusion that:

> No evidence was adduced establishing that ITT in the event of a grant would attempt to impose its position upon the journalistic activities of ABC and the record [5323] contains numerous assurances by Mr. Geneen of ITT's recognition of the importance of preserving news integrity and of the measures taken to assure ABC's continued independence in the presentation of news and public affairs programming.

74. The Department's argument concerning news integrity emphasizes what it terms "a series of improper acts" involving certain reporters who were called as witnesses in the supplementary hearing. The testimony concerning these incidents constitutes the principal evidence added to the record in the supplementary proceeding on this issue. The three witnesses were reporters covering this proceeding for the AP, the UPI and the New York Times. The reporter for the AP testified that while he was writing his story on the February 1st FCC order in this proceeding he got a call from his New York office that

ABC had complained that the first paragraph of his story was erroneous. He did not change his story and nothing further occurred. At a later date he was called by two officials of ITT concerning another story on the case. The ITT officials stated that the story was incomplete. Mr. Aug, the reporter, told his office that if the transcript of the proceeding showed the facts to be incomplete, the office should add the relevant material to the story. The ITT officials showed the transcript to the personnel in the office and some material was added to the AP story. This was the substance of the testimony of the AP witness.

75. The UPI reporter, Mr. Stout, testified that an ITT representative called him to inquire what Stout had learned regarding the Department's intention to appeal any unfavorable Commission ruling, a point which the record leaves in some confusion but on which the Department appeared to be saying one thing to newspaper reporters and something different to ITT. This line of inquiry was not pursued by the Department. Later Mr. Stout had several calls from ITT employees which had no particular significance, and then had lunch with one of them, during which there was an apparently friendly conversation in which the ITT employee complained that there had been a "great amount of inaccurate reporting" of this case but commended Mr. Stout for his own reporting. On one other occasion ABC complained about the factual inaccuracy of a story he had written and the story was corrected by others in his organization.

76. The New York Times reporter, Eileen Shanahan Waits known professionally as Eileen Shanahan, testified she had five or six contacts with employees of applicants but that several of these were "very brief and routine." Two incidents apparently developed into somewhat heated conversations. Mr. Gerrity, ITT Vice President for Public Relations, came to see Miss Shanahan personally to deliver a copy of an ITT statement. They discussed various aspects of the reporting of the case, and Miss Shanahan testified that Mr. Gerrity's tone was "certainly accusatory and certainly nasty." [5324] Finally, Miss Shanahan decided that she had "about enough" so she told Mr. Gerrity she had some work to do and he left. Mr. Gerrity did not ask Miss Shanahan to change her story about

the case. Miss Shanahan did testify, however, that Gerrity asked her if she was aware "that Commissioner Johnson was working with some people in Congress on legislation that would forbid any newspaper from owning any broadcast property (T. 2962)." Gerrity, according to Miss Shanahan, felt that this information (which we note is erroneous) should be passed on to her publisher. Miss Shanahan stated that the obvious inference which she drew from this remark was that since the Times owns radio stations, it would want to consider its economic interests in deciding what to publish in its news medium. We find this one activity of Mr. Gerrity to be improper. But we note that it is isolated in nature, and particularly take into account that when Miss Shanahan checked with the Financial Editor of the Times in New York as to whether "ITT had a reputation for being this way all the time," she received a negative reply (T. 2971–72). On a later occasion an ITT employee telephoned Miss Shanahan about apparently conflicting statements made by the Department concerning its intention to appeal the case if the Commission refused to reopen. Miss Shanahan testified that the ITT employee called her stories unfair, at which she became very angry and shouted at him, then said she would not listen and hung up the phone.

77. With the one exception noted and dealt with above,[7] there is no evidence that either ITT or ABC did any more than ask reporters covering the proceeding to be factually accurate in their reporting. It is clear that there was some difference of viewpoint as to what the significant facts were, and this difference persists among the parties, counsel, reporters, and others concerned with the case. There is no impropriety in approaching the press to inform or to attempt to correct supposed inaccuracies. All of the reporters testified that this is a common, even daily, occurrence for reporters. The Commission's own "fairness doctrine" is premised on the right to do just this with respect to broadcast reports of news and commentary concerning controversial matters.

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[7] The July 11, 1966 memorandum from Geneen to Gerrity concerning the Nielson matter is also cited as an example of ITT's alleged improper pressure. We regard such an inquiry as wholly appropriate, nor do we see anything amiss in raising the possibility of referring such a matter to Congress for inquiry.

78. The Commission Decision considered the independence of ABC news and public affairs functions as one of the principal issues, devoted a substantial part of the opinion to an analysis of the issue in detail, and concluded from the Commission's experience with similarly situated enterprises in the industry, the past performance of both applicants as long time licensees of the Commission, the autonomy of ABC News within the ABC organization, the proposed autonomy of ABC within the ITT organization, and the solemn assurances of the principals, that the merger should be approved. The area of broadcast reporting of news and public affairs is a field in which the Commission has experience and special competence and in which the Department has no special qualifications. The Commission decision found [5325] "in our experience with numbers of other licensees who encompass, along with broadcast interests, large and diversified nonbroadcast activities no indication of abuse of their public trust through the intrusion of their non-broadcast concerns upon the objectivity of their news reporting or commentary and no demonstrated detriment in any other programming sectors." Decision, par. 30. Moreover, the Commission examined "in considerable detail" and "weighed carefully" ITT's foreign interests as they might affect the merger. The Commission concluded that "We know from our experience in the regulation of communications that many of our large broadcasting licensees and the two other television networks also have substantial foreign interests, including subsidiary corporations in many countries. We have seen no evidence at any time that any of these foreign interests has influenced any of the programming presented in this country. There is no reason to assume or suspect that any such influence will occur in the case of ITT." Decision, par. 36. The Commission also found that the merger would provide ABC with greater independence and freedom from possibly improper or undesirable economic influences and would tend to assure the continued independence and integrity of the network operation of ABC, Decision, par. 26.

79. These conclusions are strengthened and reinforced by further consideration in the light of the supplementary record. Despite the most wide ranging inquiry and examination of this

issue no evidence was offered tending to show that ITT would, in the event of the merger, attempt to impose its position on ABC or influence the journalistic functions of ABC. The supplementary record contains considerable evidence and further assurances of the independence of ABC News within the ABC organization and of the recognition by both applicants of the importance of preserving the news integrity of ABC, both because of their obligations as licensees and because of economic self-interest, as well as because of professional and ethical considerations, and the supplementary record establishes the widely-recognized independence and integrity of responsible professional journalists as another potent force to maintain ABC news autonomy and integrity. The testimony of Elmer Lower, President of ABC News, is persuasive that the ABC news organization has a high sense of its own responsibility and integrity and will observe its standards of journalistic integrity regardless of the corporate affiliations or interests of the parent organization.

80. The supplementary record contains numerous reaffirmations of the determination of officials of ABC News, of ABC, and of ITT to maintain the independence and integrity of the ABC news operation free from any interference by either ABC or ITT. These assurances are epitomized in the policy statement of ITT regarding ABC, which has been referred to above. AR–4. The ITT policy statement of November 1, 1966 says, inter alia:

> The broadcast licenses which have been granted by the Federal Communications Commission, and which are subject to periodic review and renewal, represent an important public trust as well as one of the most valuable assets of ITT. [5326] In this connection, ITT entered into certain contractual obligations and has made assurances to the FCC concerning the way in which ITT intends to carry out its responsibilities as the parent corporation of a broadcasting licensee. It is the policy of ITT to carry out these commitments and assurances in full, in complete good faith, and without equivocation.

> No officer, employee, or agent of any ITT System company or group has any authority to act in any manner inconsistent with the provisions of this Policy Statement, nor to authorize, direct or condone violations of its terms by any other person. Such activity would constitute one of the greatest disservices that anyone could do to the Company. Consequently, any officer, employee, or agent who violates this Policy, or who orders or knowingly permits a subordinate to violate this Policy, shall be subject to severe disciplinary action, including discharge.
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> * * * * *
>
> The independence of ABC programming from any other ITT commercial or other similar interest shall be inviolate. No officer, employee, or agent of any ITT System company or group shall take any action or make any attempt to influence in any way whatsoever in the news, special events, entertainment, or other programming of the ABC network or stations for the purpose of attempting to further, or to avoid conflict with, the commercial or other interests of an ITT System company or group.

As pointed out above, this policy statement was made in circumstances such that it was not subject to the charge of being drafted for the purposes of this proceeding. Further, ITT has given assurances of record herein that this policy will not be changed without advance written notice to the Commission. We rely upon these assurances and have ample authority to enforce them.

81. Considering these assurances and the authority which the Commission has with respect to its licensees, the organizational arrangements between ITT and ABC, discussed above, by which ABC has a number of directors who are independent of ITT, the independence of the ABC News organization within ABC, the tradition and ethics of journalistic independence and integrity, the competitive necessity of maintaining public confidence in the integrity of broadcast news sources, the check upon news integrity which other competitive news sources provide, and all the other factors mentioned above, we find that

there cannot be any reasonable doubt that the integrity and independence of ABC's activities in the news, information, and public affairs field will be maintained after the merger.

82. The Department charges applicants with "lack of candor and completeness" in testimony on the basis of some few inconsistencies in the details of testimony and evidence and their characterization of some of the testimony.[8] There is no doubt that in the course of this very protracted, complex and difficult investigation and proceeding some errors have been made in the presentation of evidence and some changes in positions and emphasis have been made by all of the parties. However, errors and inconsistencies of this nature are not unusual in cases of this magnitude and complexity. It would be quite unwarranted to draw any inferences as to candor or character from such relatively minor aspects of the testimony and proceedings. These charges of the Department are more a reflection of the strongly adversary and partisan spirit which prevailed between the parties than a reflection of a fair appraisal of the record. It is noteworthy that the parties were highly adversary throughout the course of their participation in the supplementary proceeding, and this has given us some assurance that all aspects of the matter have been thoroughly explored and that all possibilities of evidence and inference adverse to the proposed merger have been thoroughly investigated. The Department began its investigation by the issuance of Civil Investigative Demands to both ABC and ITT on December 9, 1965. We have examined

[8] For example, the Department argues that Mr. Goldenson incorrectly represented to the Commission that the ABC loan agreement with Metropolitan Life restricted ABC borrowing to 50% of its assets. In fact, the written loan agreement did not contain such a restriction, although it did contain a restriction against further borrowings, with some limited exceptions, without the express permission of Metropolitan Life. The Vice President of Metropolitan Life who was in charge of this loan arrangement wrote to the Department and subsequently testified in the supplementary hearing concerning this matter. It is evident from his letter and the testimony that 40% of net tangible assets is the normal limit for corporate borrowers, and that this limit was exceeded with ABC only because it is a "specialized borrower," that ABC was approaching 50% of net tangible assets, and that ABC was aware of these facts. In the circumstances, we believe that Mr. Goldenson could have reasonably believed the correctness of the statement he made and that he cannot properly be found to have set out deliberately to deceive the Commission.

those demands and have found them comprehensive, wide ranging and thorough. Subsequently the Department also issued a series of further demands for documents; and the record shows that there has been substantial compliance with all demands. We are confident that the Department, with its extensive and highly skilled investigatory resources and its experienced and expert ability at economic analysis has put into the record every fact of possible relevance to our consideration and decision of this matter.[9]

[5328] 83. The foregoing discussion constitutes our findings of fact upon the record. We have considered all of the points and arguments raised by the parties with special attention to the points raised by the Department as the petitioner in this phase of the proceeding. We have not given further consideration to the possibility of restructuring the entire broadcasting industry, as suggested by the ACLU, since we do not believe that this is an appropriate proceeding in which to consider that issue and because there is nothing to be added to the discussion of that issue set forth in our Decision, pars. 39, 40.

84. In the final evaluation, we must balance the detriments and benefits to the public interest. The following is a skeletal presentation of our main conclusions:

(1) We have found that the relevant market for purposes of competitive analysis is the national television network market, and that since ITT was not a potential independent entrant into that market, its merger with ABC will not lessen or tend to lessen competition, actual or potential, in that market.

(2) We have found that ITT decided to curtail its CATV activities independently of the merger, and that it did not seriously contemplate the possibility of establishing a national CATV grid that might become competitive with the national television networks and that, taking into account the other contingencies in this area (Commission policy and copyright

[9] Similarly, we do not regard the Press Wireless matter as reflecting adversely, to any significant extent, on ITT but rather more a question of need for better technical compliance with Commission application form requirements. It is undisputed that Press Wireless was at all times subsequent to September 7, 1965, controlled by officers or officials of the ITT organization, and specifically those of ITT Worldcom.

obstacles) and the activities of numerous other companies, any detriment here is most speculative and therefore of at most a very slight nature.

(3) We have found with respect to technology no detriment but rather that ABC is in need of technological assistance, research and support that it is unlikely to get without a merger with ITT. Further, ITT is not and has not been in the American broadcasting equipment market, but its merger with ABC will induce it to enter that market.

(4) We have found that however limited that entry may be, ITT, in view of its representations and under the condition laid down in this opinion, will seek to aid the technological development of UHF broadcasting during the ensuing critical 3-year period.

[5329] (5) We have found consequently that the proposed merger will in our view strengthen ABC technologically, increase competition in the American broadcasting equipment and technology field, and assist UHF development.

(6) We have found any detriment to the independence of ABC in regulatory matters to be slight in nature, in view of the small area of conflict; we have also taken into account the explicit representations on this matter.

(7) We have found that there is no likelihood that the merged ABC–ITT will employ reciprocity power to create any obstacles to competition in the television advertising market.

(8) We have also found that the evidence is clear and convincing that the integrity and independence of the ABC news operation will be maintained as fully after the merger as it has been previously.

(9) We have found that ABC has historically been in a competitively weaker position than the other two television networks, and that this competitive disparity continues.

(10) We have found that ABC will be significantly aided by having ITT's financial strength back of it, both in its competition with its network rivals and in its efforts to better serve the public interest through entertainment innovations, news and public affairs expansion, etc.

(11) We have found that ITT has given full recognition to its obligations as the parent of ABC and has given reliable assurances that it will give ABC all the technological and financial support needed to permit it more fully to perform its public interest functions. T.1954–1955, 1996–1997, 2001–2002, etc.

(12) We have found that with the merger, ABC in a number of markets will be able to foresake reliance on secondary clearances on VHF stations in favor of primary affiliations with UHF stations—a further contribution to UHF's development during this critical period.

85. An agency does not make judgments of the nature here involved in a mechanical fashion. It is charged with bringing to bear on the problem the specialized insight it has accumulated as a result of years of regulating the industry and of seeking to promote the public interest. We can appreciate the Department's concern in regard to the issues presented and commend its efforts. We have taken into account the Department's own expertise in this area. But we must conclude that in our judgment, the detriments revealed on this record (e.g., the possibility of an independent network entry by ITT or of the establishment of a CATV national grid) simply [5330] are too speculative or slight to weigh heavily in the balance. On the benefits side, we also recognize that the matter does not suddenly become one of sure, definitive nature. There is necessarily some degree of uncertainty in, for example, how much ITT may contribute to the domestic broadcast technology market. We have endeavored to make that contribution (and the assistance to UHF through primary affiliation) more concrete by the conditions imposed herein. But in the final analysis we are left with the difficult task of judgment as to the future on the benefits side also. We have discharged that task with the background of this agency's long history of attempting to improve ABC's competitive posture vis-a-vis the other two networks and its ability to better serve the public interest in areas such as news, public affairs, and cultural entertainment innovation. It is our firm judgment that this merger, by providing ABC with a stronger financial base, will significantly assist ABC in making the necessary long-range plans and in taking

the risks in this area so vitally important to the American public. It will be of benefit to the development of UHF during its most critical period. In sum, then, the benefits to the public interest flowing from the proposed merger clearly outweigh any detriments to the public interest that may be potential consequences, including those that have been so exhaustively explored in the record of the present proceeding and that are discussed in the foregoing opinion.

86. We have not repeated the substantive discussion in the Commission Decision, since the evidence in the supplementary record, although in much greater detail than previously before us, does not lead us to change any of the conclusions previously reached. Accordingly, we affirm our prior Decision herein, and supplement it by the addition of the findings and conclusions in this Opinion and Order. The Memorandum Opinion and Order of the Commission entered herein on December 21, 1966, together with this Opinion and Order shall constitute the Opinion of the Commission. The conditions specified in this opinon are binding on the applicants and, therefore, need not be recited in the ordering clause.

87. By letter dated June 12, 1967, the Department requested that any Commission order approving transfer should provide an effective date 30 days after its issuance, in order to permit the Department "carefully to review such a decision to determine whether it would be appropriate to perfect an appeal." By letter dated June 16, 1967, ABC and ITT represented to us that "they will not consummate the transaction contemplated by the Plan and Agreement of merger between them dated February 14, 1966, until at least 30 days after publication of the order." We hold ABC and ITT to this representation and therefore need take no action on the Department's request.

[5331] 88. Accordingly, IT IS ORDERED that:

(i) The stay of the Commission's Order of December 21, 1966, heretofore entered is dissolved and terminated.

(ii) The petition of the Department of Justice for reconsideration of the Commission's Order of December 21, 1966, herein is denied.

(iii) The Order of the Commission entered herein December 21, 1966, is affirmed.

FEDERAL COMMUNICATIONS COMMISSION,
BEN F. WAPLE, *Secretary*.

See attached dissenting opinion of Commissioners Bartley, Cox and Johnson.

[5332] THE ABC–ITT MERGER CASE

RECONSIDERATION

["In the matter of applications by American Broadcasting Companies, Inc. for assignment of licenses of stations . . ."]

DOCKET NO. 16828

Dissenting Opinion of Commissioners Robert T. Bartley, Kenneth A. Cox, and Nicholas Johnson, June 22, 1967

* * * * *

[5334] I. SUMMARY AND INTRODUCTION

Last September the Federal Communications Commission chose to listen to the two applicants to this largest merger in the agency's history present the case for ITT and ABC without any present and participating representative of the public interest. On that occasion a member of the present majority, in discussing the issues that might be presented if ABC were disposing of its network and stations in some other way, declared:

> I assume we can make a finding in the public interest for any result that we wanted to reach (R 195).[1]

[1] We have adopted the following practice for citations. When the record of the hearings and oral arguments is cited, for reference to testimony of a witness, the witness, name will be given as well as the page at which his testimony appears. When the hearing record is cited for a reference other than testimony, the letter "R" will be used with a citation to the page.

Exhibits will be cited as they were denominated at the hearing with an abbreviation of the party offering them (AR for ABC–ITT, J for the Department of Justice, and BB for the Commission Broadcast Bureau) and the exhibit number.

Formal filings will be cited with an abbreviation of the offering party (ABC–ITT, J, BB), the name of the filing (Findings, Brief, Reply), and a page number.

Citations to the majority's decision will be to paragraph (par.) number, and will refer to today's opinion unless the December 21, 1966 opinion (7 F.C.C. 2d 245 (1966)), is expressly identified.

We think the majority, addressing itself to the merger as proposed, has undertaken to make a public interest justification for which we cannot find support in the record. Not once, but twice.

[5335] It has now gone through the proper rituals. A conventional hearing has been held—although the Hearing Examiner was precluded from expressing an opinion on the case, and because of the delays already experienced was required to adhere to an unusually restrictive and demanding hearing schedule. It has incanted the proper phrases about our "expertise." What is fundamentally disquieting about the majority's position, however, is its relentless adherence to its earlier decision in the case, no matter how seriously the factual record on its behalf has deteriorated from September to the present time.

The original self-serving declarations of the parties about the public interest benefits of the merger have been substantially altered by their own subsequent testimony, and overpowered by conflicting contemporaneous documents and the testimony of independent parties. The potentialities of detriment to the public interest from the merger which concerned the three of us in September—characterized by ITT counsel at that time as mere "suspicions" (R 383)—have since largely been proved out by actions of the parties themselves, as nearly as predictions of the future can be established.

In September both ITT counsel and the Commission majority took great satisfaction from the fact that, "No religious, charitable, civic, public service or civil liberties organization in America has wired or written to the Commission protesting this application or asking the Commission to deny it." (R 120; par. 6 of Dec. 21, 1966 majority opinion). The suggestion is that the absence of protesting parties absolves the [5336] Commission of responsibility to evaluate the public interest on its own, or somehow argues in the merger's favor. But the FCC's mission is not to evoke a conditioned response merely because there is only one petitioner ringing the bell. It is to engage in a rational exercise whose objective is the public interest, and is not determined by the limited number of contenders

in the ring. It is difficult, if not impossible, for most members of the public we are charged by law with representing to appear before us personally, or send counsel. However, whether one chooses to be persuaded by reason or authority, a rather impressive array of both has now come to the view that this merger will not serve the public interest.

> The United States Department of Justice has felt strongly enough about both the public interest and the competitive detriments of this merger to take the somewhat unusual steps of petitioning this Commission to reconsider its December 21, 1966, opinion, and then to participate actively and extensively in our hearing with some of the ablest men available to it. In fact, the Attorney General of the United States said publicly that he has personally reviewed the Department's opposition "at some length and with care." Interview with the Honorable Ramsey Clark, Attorney General of the United States on CBS' Face The Nation, March 12, 1967.
>
> The FCC's own Broadcast Bureau Hearing Division Chief, Thomas B. Fitzpatrick, and his trial staff of three (the only Commission personnel to express a view who actually participated in the hearing and observed the witnesses) responded, when asked during the June 1967 oral argument before the full Commission, that "it is our opinion as trial counsel . . . that the public interest would not be served by this grant." (R 4086)

[5337]

> The American Civil Liberties Union, the nation's foremost "civic, public service, civil liberties organzation," filed a brief with this Commission protesting the merger.
>
> Gerald H. Gottlieb, antitrust lawyer and staff member of the prestigious Center for the Study of Democratic Institutions in Santa Barbara, California, filed a thoughtful brief protesting the merger and requesting participation as amicus curiae ("friend of the court").
>
> An impressive array of witnesses—barred by normal procedures from expressing an opinion on the ultimate

issue—testified at length as to facts and opinions supporting the Department of Justice position. They included: Professor John C. Burton of Columbia University; Charles Charbonnier, Vice President, Securities, Metropolitan Life Insurance Company; Dr. Joseph V. Charyk, President and Director, Communications Satellite Corporation; Asher H. Ende, Deputy Chief, Common Carrier Bureau, FCC; Professor Hyman H. Goldin of Boston University (most recently Executive Secretary to the Carnegie Commission on Educational Television, and formerly the principal economic adviser on broadcast matters at the FCC); John J. Graham, Vice President, General Dynamics (formerly Vice President, ITT); Professor Albert G. Hill, MIT; Ernest J. Kropp, Vice President, Manufacturers Hanover Trust Company; Professor Harvey J. Levin, Hofstra University; Howard E. Stark, radio and television station broker.

We have even seen the somewhat unusual, if not unprecedented, appearance of a "public witness," advertising executive, author, and management consultant, Sidney W. Dean, appearing in his own behalf in opposition to the merger.

Finally, we three Commissioners of this seven-man Commission have felt so strongly about the undesirable nature of this merger that we have dissented twice, without concealing our genuine and unusual depth of feeling and concern, and with what we believe to be an overwhelmingly thorough documentation of the reasons why this merger cannot meet our statutory "public interest" standards. (Commissioner Bartley, joined by Commissioner Cox, dissented *three* times, [5338] the first being to a Commission letter asking the applicants for superficial information rather than setting the applications for evidentiary hearing.)

Moreover the hearing in the proceeding has been, we believe, legally defective. The seriousness of the matter before us required that such a hearing contain all the safeguards estab-

lished by statute. Section 309(d)(2) of the Communications Act provides that "if the Commission for any reason is unable to find that grant of the application would be consistent with subsection (a)," it shall set the application for hearing as provided in subsection (e).

Furthermore, Section 311(a)(2) of the Act requires that "if the application is formally designated for hearing in accordance with Section 309, [the applicant] shall give notice of such hearing in such area at least ten days before commencement of such hearing." No showing is made by the applicant, as required by Section 1.594(g), 47 C.F.R. § 1.594(g) (1967), of our rules, that such notice was given.

One of the purposes of the statutory requirement is to make the proposed transaction known to parties who may want to oppose it and appear at the hearing. The Commission majority made much of the point that no oppositions were originally filed against the merger. This point becomes meaningless in face of the fact that notice of the hearing was not given as provided in the Act and our rules. Although the Commission can waive its own rules, it cannot waive the statutory requirement.

[5339] In spite of the rather substantial public interest in. and concern about this merger—even without compliance with the statutory notice requirements—the Commission was still to be subjected in its June 1967 oral argument to the absurd and pathetic spectacle of ITT counsel stating,

> When we argued in September, I pointed out to you then, and I repeat now . . . no one, but literally no one, has stepped forward and said as a member of the public . . . I want my views known because I am opposed to the merger. (R 4209–10)

But there is far more to this case than a parade of authority in opposition to the majority's action, and the persistence of applicants' counsel in misrepresenting that fact.

The essential structure of this case remains as it was in September. It is governed by Section 310(b) of the Communications Act of 1934, in which Congress provided:

> No . . . station license . . . shall be transferred . . . except . . . upon finding by the Commission that the

public interest, convenience, and necessity will be served thereby.

Although the case is characterized as a "merger," which it is, it comes before the Commission because ABC (the American Broadcasting Companies, Inc.) proposes to transfer the title to its seventeen radio and television stations to an ITT (International Telephone and Telegraph Corporation) subsidiary. Thus, in order to "approve the merger," the Commission majority has had to find in a technical legal sense [5340] that the transfer of the seventeen ABC-owned stations to ITT will serve the "public interest, convenience, and necessity."

There are those who would argue that all Congress intended was that station transfers, and licensee mergers, should be registered with the Commission and given a stamp of approval, like a restaurant owner stamping the parking lot stubs of his patrons. They would say that the Commission "has no business interfering" in arms-length transactions by licensees in disposing of their stations so long as they do not violate express statutes or Commission regulations. Indeed, this appears to us to be the only possible rationale for supporting the result reached by the majority. Needless to say, we do not hold this view. Nor does the majority seem to. For why else would it seek, through a strained interpretation of the record, to spell out a "public interest" finding?

We believe that when Congress said, "No . . . station license . . . shall be transferred . . . except . . . upon finding by the Commission that the public interest, convenience, and necessity will be served thereby," it contemplated that some transfers would *not* serve the public interest. We believe Congress instructed this Commission to both seek and examine evidence that the public interest *will* be served by a proposed transfer. We believe the burden of coming forward with such evidence is on the applicants. We believe the burden of proof is theirs as well. We believe without such evidence a proposed merger [5341] must be disapproved. And we believe that evidence that the seeds of overall detriment to the public interest lie within a proposed merger precludes a Commission finding that it serves the public interest. Finally, we believe that if one accepts our

interpretation of Section 310(b) the analysis in our opinion is compelling.

It is useful to an understanding of this case to see the parties and this procedure in historical and economic perspective and we have provided a "Chronology and Documents Index" as an Appendix to this opinion for that reason. We would also make reference to our earlier opinions in this case, ABC–ITT Merger, 7 F.C.C. 2d 245, 263, 276, 278 (1966), for much of our analysis then is fully as relevant today. But a brief summary statement at this point may be useful.

ITT is a sprawling international conglomerate of 433 separate boards of directors that derives about 60 percent of its income from its significant holdings in at least forty foreign countries. It is the ninth largest industrial corporation in the world in size of work force. In addition to its sale of electronic equipment to foreign governments, and operation of foreign countries' telephone systems, roughly half of its domestic income comes from U.S. Government defense and space contracts. But it is also in the business of consumer finance, life insurance, investment funds, small loan companies, car rentals (ITT Avis, Inc.), and book publishing. Its President, Harold Geneen, announced a five-year plan in 1959 to double ITT's sales and earnings [5342] and to increase the domestic portion of its income—principally through acquisitions. ABC is a part, and a most significant part, of ITT's corporate growth. The five-year plan has more than succeeded, and the trend continues.

ABC was born in 1941 when this Commission ordered RCA to divest itself of one of its two radio networks. It started with but two stations of its own, and substantial competition from CBS and NBC. In 1953 this Commission approved ABC's merger with United Paramount Theatres. Paramount Television Prods., Inc., 17 F.C.C. 264 (1953). Today ABC owns 399 theaters in 34 states, five VHF television stations, six AM and six FM stations (all in the top ten broadcasting markets), and, of course, one of the three major television networks and one of the four major radio networks in the world. Its 137 primary television network affiliates can reach 93 percent of the 50,000,000 television homes in the United States (more in

prime-time evenings through secondary affiliates), and its radio network affiliates can reach 97 percent of the 55,000,000 homes with radio receivers. ABC has interests in, and affiliations with, stations in 25 other nations, known as the "Worldvision Group." ABC Films distributes filmed shows throughout this country and abroad. It is heavily involved in the record business, and subsidiaries publish three farm papers. From net sales of $18.8 million in 1943 the company's revenues climbed to $476.5 million in 1965—of which $361.6 million came from broadcasting.

[5343] Quite obviously, no corporation sets out to acquire another because the merger is thought to be a way to serve the corporation's "public interest" responsibilities. Corporations merge to serve the personal and private interests of management and their broader corporate responsibilities. That is not to say that a merger conceived and designed to serve private interests cannot also serve the public interest. Not at all. It is only to say that the evaluation of the public interest served by a merger must be undertaken with a no-nonsense awareness of the private interest realities at stake, and that the burden of meeting a public interest test is substantial and falls squarely on the shoulders of the applicants.

ITT's drive for acquisition of domestic companies has already been detailed. ABC's interest in the merger, on the other hand, grew principally out of its desire to insulate management from the pressure of minority shareholders—principally Mr. Norton Simon. In spite of ABC's elimination of cumulative voting rights in 1964, Mr. Simon's nine percent interest had become a substantial threat by the summer of 1965. See generally, 7 F.C.C. 2d 245, 278 at 292–93 (1966).

Yet it was Mr. Geneen of ITT, however, who initiated and actively pursued the merger negotiations throughout. Talk became serious in late 1965. The merger agreement was signed in February 1966 and filed with the Commission in March. The Commission asked [5344] for, and received, additional filings from the parties in July, and in August ordered a hearing to be held in September.

The September 19 and 20 "hearing" before the Commission—characterized by the majority in its December opinion

as occupying "two unusually long days" (par. 12)—consisted of presentations by the parties to the merger and questions by some of the Commissioners. No effective participation or cross-examination was requested or provided from the FCC staff or any other party representing the public interest, and the hearing was decidedly not "adversary" in any conventional sense. Additional material was requested from the parties by some Commissioners in October and November, and the Commission's decision issued on December 21, 1966. In our dissents at that time we pointed out, among other things, the incongruity of the Commission majority approving the merger on the grounds of ABC's need for capital in the face of the letter from the Assistant Attorney General (Antitrust) Turner of the evening before revealing that ITT thought it would be able to take $100 million out of ABC over the next five years.

The Department of Justice filed a petition for reconsideration in January 1967, and on February 1, 1967 the Commission stayed its December 1966 order approving the merger. Numerous documents were filed by the Department and the applicants in February, and on March 16, the Commission—with three of the Commissioners in the [5345] present majority "abstaining"—voted to hold an expedited evidentiary hearing before a hearing examiner. The hearing ran from April 10 to 26, and produced 3,275 pages of record and 553 exhibits. Proposed findings of fact and briefs were filed by the parties during May, and oral argument was once again held before the full Commission (with, this time, the full participation of the Broadcast Bureau and the Department of Justice) on June 1 and 2, 1967. Now, roughly three weeks later, these opinions are issued.

The issues in the case have changed in some significant respects that are discussed later in our opinion. But they remain, in general, as they were in September.

The applicants allege that ABC is a dangerously weak third in the television networking business, and that ABC has not been able to show sufficient growth to narrow the gap between it and CBS and NBC. If its competitive position is not improved, they allege, ABC's programming will deteriorate further, including cut-backs in its "unremunerative" news and

public affairs programming. They say ABC has financial needs for additional physical facilities and other purposes that it is unable to meet from current income or borrowing, and that ITT will make available the additional financial resources and technological support necessary to make ABC a "fully competitive" network. In response to the alleged public detriments from the merger, the parties offer assurances that ABC will be completely independent of ITT in its [5346] news and public affairs presentations, and in stating positions before the FCC contrary to those of ITT. They promise that the companies will not engage in reciprocal dealing with third parties or otherwise impede competition in the broadcasting business. And they argue that the merger will not remove ITT as a potential force in the broadcasting or cable television business because its interests in both were minimal and had been substantially curtailed for reasons unrelated to the merger.

After a close and careful examination of all the evidence we have concluded that:

—(1) in allowing ITT to acquire ABC, the merger will have the effect of eliminating the probably significant competitive influences which ITT could be expected to exert on broadcasting if it did not own ABC

—(2) while there might be some incentive to ITT to do research which would advance broadcasting technology as a result of the merger, it is more likely that there will be a significant retardation of truly meaningful communications technological advance

—(3) the merger will eliminate ABC as an active opponent of ITT's common carrier positions and, by reducing the independent networks to one, will seriously jeopardize the effectiveness of the Commission's deliberations on common carrier tariffs and other proposals

—(4) the joinder of ITT, a prototypic conglomerate, with one of the three major broadcasting entities in this country, presents probable danger to the independence of ABC's news and public affairs programming—as evidenced particularly by ITT's extraordinary actions with respect to the press during the pendency of this very hearing

[5347] —(5) there is no real danger that ABC could not carry through its entire planned expansion without the merger, and there is no credible evidence whatsoever that those same future expenditures provided any motive for the merger.

(The Justice Department has also argued that the merger will have a harmful effect on the advertising market by channeling ITT's advertising exclusively to ABC and by presenting the possibility of reciprocal dealings by ITT. We do not believe that this is significant because the part of the advertising market which ITT could conceivably foreclose is so small that any anticompetitive effect would be minimal.)

In analyzing this case and preparing our dissenting opinion we have been troubled by the fact that in virtually every instance the applicants' assertions, and the majority's opinion, are premised on nothing more substantial than the parties' own self-serving declarations. In this opinion we endeavor to compare those self-serving statements to the FCC with the parties' earlier testimony, the documentary record of their views at the time of the transactions in question, and the common experience of mankind with these and other parties. One cannot say that there are no statements of the interested parties which support the majority's conclusions. There often are. However, the quest must be to establish whether these statements rest on any meaningful basis of credibility to sustain the parties' burden of proof. Unfortunately, therefore, it is necessary for us to examine, in addition to other evidence, the conduct and credibility of the parties and their testimony. They, and the majority, give us no option.

[5348] Have the parties been candid with this Commission? Have they demonstrated a respect for the responsibility and authority of government—and the independence of the press? Have they been overbearing and overzealous in the presentation of their case? These are the questions we address in the next section of this opinion—questions that must be addressed in a case that rests almost entirely upon the majority's acceptance of the self-serving assertions and assurances of the applicants. The answers present, we think, not a pretty picture.

[5349] II. THE APPLICANTS' CONDUCT RAISES SUBSTANTIAL QUESTION AS TO THE CREDIBILITY OF THEIR SELF-SERVING STATEMENTS

Many of the issues in this case turn on the intentions, motives and plans of officials of the two merging companies at various times over the last four years. In many instances the evidence bearing on these intentions, motives and plans is of two kinds: first, memoranda, minutes and other internal documents of the companies prepared at meetings or in response to requests at the various times in question; second, the later testimony of the various officials involved at the original September "hearing" and at the supplemental hearing.

For numerous issues the contemporaneous documentary evidence would tend to indicate—more or less strongly—one decision, while the September and supplemental testimony indicates the opposite. In those cases the majority has chosen, almost invariably, to believe the testimony and to disregard or ignore, or tuck into footnotes without comment, the documentary evidence to the contrary. Where there is only self-serving testimony it is believed. Where there is no evidence, not even from the applicants, the majority fills in the blanks with its own "expertise." In addition, the majority places overriding faith in further representations of ABC and ITT officials of present intentions with regard to future conduct.

Now it is a standard rule of evidence which accords with the most elementary common sense that spontaneous and contemporaneous [5350] documentary evidence of intention, motive and understanding is more probative than later retrospective testimony. See, *e.g.*, United States v. United States Gypsum Co., 333 U.S. 364, 396 (1948). This case presents a great deal of concrete evidence of the wisdom of this rule. For in many instances the officials' testimony, especially at the September hearing when no party opposed their merger plans, is so clearly at odds with the other evidence that no credit can be given to it whatsoever. In numerous other cases there is flagrant under and overstatement by the parties to the merger—always in the service of their cause. Perhaps this is understandable. The parties come before us as advocates, seeking to impress us with the merit of their case. But the testimony they have

given has been so lacking in candor, so careless of the need to inform us in an honest and forthright way, that it is simply incredible that the majority can place such abiding faith in their every word. Especially is this so with regard to representations of future intention. Quite obviously these statements are made in the same spirit of advocacy as are the distorted interpretations of the past, and they should be taken with the same mound of salt.

But the parties' conduct in pursuit of this merger has not stopped with disingenuousness before this Commission. It has been evidenced by overbearing and presumptuous conduct toward the press, and a desire to distort and pervert the media in their reporting of [5351] these proceedings. It has continued with overzealous conduct by counsel, going far beyond the bounds of accepted advocacy. It has seen the calling of so-called expert witnesses whose testimony does—and must be assumed to have been intended to—distort rather than clarify the record, and the introduction of slanted and obscuring documentary evidence. Moreover, as we discuss later in Section VI, ITT's past pattern of relations with foreign and domestic governments only intensifies our concern.

In the light of this consistent syndrome of the most intense and overbearing advocacy, we would think it imperative that the evidence and testimony of both ABC and ITT be scrutinized most carefully. The majority has chosen rather to scrutinize it only selectively and in the service of finding evidence to support approval of the merger. For that reason we must undertake the scrutiny ourselves. But first let us partially document the cause for our concern.

A. CANDOR

Examples of the applicants' lack of candor with this Commission are rampant. Here are a few involving limits on ABC's borrowing capability and its long-range pre-merger plans for expansion, ITT's interest in CATV and broadcasting properties, and ITT's policies toward subsidiary autonomy.

[5352] Perhaps the most serious example of this lack of candor was in connection with Mr. Goldenson's representations at the September hearing regarding a so-called "50% limitation"

of ABC's borrowing capacity. Mr. Goldenson interrupted Mr. Geneen's testimony at the September hearing to say,

> If I may interrupt, in order to try to clear this record if I may, under our Metropolitan loan where we have borrowed $70 million, it provides that we have a limitation of 50 percent of our assets as the outside limit of our borrowing. With the $25 million we have just provided for in borrowing from the bank, we are therefore presently at a 47 percent level, so that gives us a latitude of 3 percent of our $200 million. (Goldenson 567).

Mr. Goldenson's volunteered statement at that time was incorrect. There is no provision in the Metropolitan loan agreement or any other debt instrument of ABC that limits further borrowing to 50 percent of assets. Mr. Siegel, who knew that there was no such provision so informed Mr. Goldenson within a day or two after the hearing. (Siegel 2454). The Commission was never notified of this error until the supplementary hearing, and then only on cross-examination. The Commission's December opinion approving the merger specifically relied on this limitation, saying, "Commitments made under existing loan agreements limit further borrowing by ABC to $6 million." (par. 24). ABC has attempted an explanation of this dereliction, but, considering the importance of the point at issue and the Commission's reliance upon this representation, the explanation is quite unsatisfactory. [5353] Mr. Siegel testified that he was warned orally by an officer of Metropolitan Life that ABC's borrowing was approaching 50 percent of assets. He took this to be a "warning that we were getting pretty close to the danger line." (Siegel 2457). But the Metropolitan officer involved testified that he had no recollection of having given any such warning to ABC. (Charbonnier 1331–32, 1338). On the basis of this oral warning, which was neither formal nor standard enough for the insurance company officer now to recall it, Mr. Siegel in turn warned Mr. Goldenson and Goldenson interrupted another's testimony to inform—or, rather, to misinform—the Commission.

The parties, still insisting that there was a 50 percent limitation and refusing to recognize any relevant distinction between a "provision" in a contract and an oral warning not recalled

by the creditor's representative, continue in their recent briefs to overstate and misrepresent their case. ABC and ITT contend that, "The record makes clear that the Metropolitan indeed had given ABC the 50% warning. . . . In his April 3, 1967 letter to the Department, Mr. Charbonnier confirmed that Metropolitan would not consent to additional senior borrowing by ABC above a 50% debt ratio." (ABC–ITT Reply Brief, p. 33). Actually what Mr. Charbonnier said, referring to his conversation with Mr. Siegel, was,

> [A]t the time I certainly was aware that ABC was approaching a 50% debt level and in view of this condition it would have been normal for me to indicate that we would not like to consent to the incurrence of additional senior debt which would result in a [5354] debt ratio of 50% or more. As I might have indicated on March 28, a 50% total debt ratio (i.e., total senior and subordinated debt as related to total net tangible assets) is quite common in both public debt issues as well as in debt issues that are placed directly with institutional lenders. (AR 41, att. 5, p. 2).

Thus Mr. Charbonnier did not confirm that Metropolitan would not consent to additional senior debt. Moreover, he testified quite explicitly that the Metropolitan has never had any occasion to determine the maximum amount *it* would be prepared to lend ABC (to say nothing of the amount it would be prepared to allow others to lend ABC). (Charbonnier 1328). Neither Mr. Goldenson, nor the Commission in reliance on Goldenson's representations, restricted the limitation to senior debt. And the suggestion that an oral "warning" is in any case the equivalent of a written contractual provision is unworthy of sophisticated businessmen and lawyers. ABC's clear duty was to inform the Commission of the true state of affairs and not wait to rationalize its dereliction after the truth had been discovered.

On July 20, 1966 the Commission wrote Mr. Goldenson, asking for "a statement specifying in further detail the manner in which the financial resources of ITT will enable ABC to improve its program services and thereby better to serve the pub-

lic interest." In reply Mr. Goldenson wrote: "Illustrative of the capital requirements for *plant and equipment* [emphasis in original] *already known and planned by ABC* [emphasis added] are . . . approximately $90.0 million for constructing and equipping *new* [emphasis in original] [5355] studio complexes to be built in New York and Los Angeles, as a part of our long range plan." The facts surrounding calculation of that $90 million figure are essentially uncontested. Mr. Goldenson relied on Mr. Siegel, ABC Vice President, for the figure. (Goldenson 1536). Mr. Siegel asked a Mr. Marks, then head of ABC's construction department, to arrive at an estimate, and it was Mr. Marks who put together the figure of $90 million. (Siegel 2389). Mr. Siegel's understanding is that Marks arrived at that number by adding together three other estimates: $17 million for Hollywood construction, $40 million for New York construction, and $33 million "for the cost of equipping the new studios and renovating the existing properties in New York." (Siegel 2540). Each of these three components can be questioned, but the insubstantial nature of the information on which the $40 million estimate for New York construction is based is probably most obvious.

In December of 1964, ABC had authorized $300,000 "for architectural and engineering fees for preparation of designs and plans for . . . alterations and improvements" of its New York properties. (AR 8). The Austin company was employed to make these plans. The New York Austin plan was presented on June 20, 1966. (AR 39). It was discussed at a meeting on July 8, 1966, and was rejected by both Mr. Goldenson and Mr. Siegel because it took too short-range a view. (AR 19; Goldenson 1532; Siegel 2394–95). But in January of 1966, [5356] based on what was then available of this New York Austin plan, the Diesel Construction Company submitted an "approximate" estimate of $39,050,000 for the New York construction. (AR 15). It was this Diesel estimate, based on a then-rejected Austin plan and formulated about five months before that Austin plan was in final form, which formed the basis for the $40 million estimate for New York construction. (Barnathan 2107–08). Thus it is quite clear that the estimate in Mr. Goldenson's letter was designed to dramatize ABC's need for funds with little con-

cern for the foundation which it had in fact. And the representation by Mr. Goldenson that the $90 million represented "capital requirements for plant and equipment already known and planned by ABC" is simply unfounded.

Mr. Geneen's testimonial legedermain was slightly more subtle but no less disingenuous. Thus, he testified in September that ITT had "some very small CATV experimental operations." (Geneen 516). These "small experimental operations" were described by internal ITT memoranda as a "full-scale CATV effort." (J 119). An entrepreneur with whom ITT had discussions testified that ITT officials told him at one time the company intended to become the largest CATV firm in this country. (Levey 3150). Mr. Geneen was quite familiar with ITT's activity, as is evidenced by a November 1, 1965 memorandum which he sent to an ITT CATV official. Geneen said, [5357] "Per your recent report we have committed, or will have spent by year end, $10 million in support of new operating franchises. . . . The work done to date by your division I think is outstanding in its ability to move fast and 'nail down' the locations developed." (J 74). And only four days earlier Geneen had sent a memorandum outlining in detail the problems which he felt were posed by ITT's CATV program, testifying both to his very acute and probing mind and to his intimate knowledge of ITT's very extensive and serious interest in CATV. (J 134). The only possible conclusion from his September testimony is that he knowingly minimized ITT's pre-merger interest and potential as a competitive force in CATV in an attempt to strengthen the case for the merger (as not diminishing competition).

At the September hearing Mr. Geneen also testified, with regard to ITT's interest in broadcasting stations. He said, "We did hold some conversations from time to time in a general way, with people who purported to think we should get into stations, and that sort of thing, but we never got anywhere with that." (Geneen 592). This suggests that others thought ITT should get into broadcasting, but that ITT was not seriously interested. However, an ITT document which was presented to the Board in support of the ABC merger proposal said: "As you know, for about two years we have been inten-

sively researching the broadcasting industry, and closely following all developments that might lead to possible acquisitions, because of [5358] our belief that this industry represented one of the most attractive fields for potential ITT entry." (J 238). Geneen's reaction, from the start of ITT's pursuit of broadcasting stations, has been described as "very favorable." (Graham 2603). Mr. Geneen himself engaged in negotiations for one television station, and it seems rather clear that he extended an offer for that station. (Graham 2599). In addition he personally met with a station broker who was examining stations for possible ITT purchase. (Geneen 1805–06). Thus Mr. Geneen's September representation that it was others who tried to interest ITT in buying stations, with ITT's interest a passive one, was a knowing and gross understatement of the actual state of affairs.

With regard to the station in the negotiations for which Mr. Geneen personally engaged, he again made misleading representations at the supplemental hearing. Mr. John Graham, a former ITT vice president and director, testified that he and Geneen visited WTIC in Hartford in August or September of 1963, and that Geneen there made an offer of $35 million for the station. (Graham 2599). Mr. Geneen testified that he did not make an offer and that the WTIC officials were asking $35 million. He contends that he considered this price too high. (Geneen 1818). Yet Mr. Geneen sent a cable to Mr. Graham on September 7, 1963 in which, referring to the terms of the securities to be exchanged for WTIC, he said, "the offer is indeed generous. . . . My feeling is we should trade hard at this point having [5359] been generous." (J 142). Either his testimony with regard to who initiated the $35 million offer, or as to his own feelings at the time about the figure, was erroneous.

In his July 1965 letter to the Commission Geneen assured us that "ABC will operate as a substantially autonomous subsidiary." In the September hearing, he employed the same term—"substantially autonomous"—to describe the managements in the "ITT management system." (Geneen 165). And he described "the proposed method of operation of ABC as a substantially autonomous subsidiary" as "harmonious with the present ITT management system." (Geneen 167). And

again, in assuring the Commission that all viewpoints on common carrier matters would be presented to the Commission if a conflict developed within ITT, Geneen said, "the ITT management system of substantially autonomous subsidiaries will enable and, in fact, require both divisions to present their separate views to the Commission. . . ." (Geneen 172). The Commission in its December opinion placed great reliance on these assurances of substantial autonomy for ABC. (par. 22). It is fair to assume that this reliance was bolstered by the representations that the ITT system already afforded subsidiaries substantial autonomy. At the supplemental hearing, on the other hand, it became clear that ITT was one of the most tightly and centrally run conglomerate companies in the country. (Graham 2609, 2615). At that second hearing, where it was clear that there would be substantial [5360] testimony about the way ITT was actually run, Geneen's choice of words in describing ABC's relationship to ITT had changed. It was "a unique set up that we have proposed in the case of ABC." (Geneen 1870; see Geneen 1900, 1907, 1916, 1924).

These examples could be multiplied further, but the lesson is fairly clear. On one or two occasions such lapses could be attributed to faulty memory. But the misrepresentations and exaggerations follow a consistent pattern: they all tend to strengthen the case for the merger. Under such circumstances the conclusion is inescapable that they are part of a knowing attempt to mislead the Commission. They must, therefore, substantially detract from the majority's reliance on such self-serving statements in struggling to justify the merger.

B. Overbearing Conduct

There are several other incidents revealed by the record which show the disdain in which ITT holds this Commission, and other persons and institutions in our society, seen as bothersome obstacles in the way of the merger or other ITT design. Such conduct is relevant to the credibility of ITT's self-serving statements generally, and especially its assurances to this Commission of its regard for the integrity and independence of ABC programming decisions and of its sense of responsibility in making commitments to this Commission as a broadcast licensee.

[5361] Within the past two years and with the necessary Commission approval, ITT acquired Press Wireless, a specialized international carrier serving the press. Subsequently, and *without* the necessary Commission approval, ITT transferred the company from one subsidiary to another. Then ITT sought Commission approval of the transfer. Despite numerous contacts with the Commission staff aimed at expediting approval, ITT officials never informed the Commission that the transfer had long since been accomplished. (Samuelson 3346–48; BB Proposed Findings 107–16). Thus, having arrogated to itself the right to shift ownership of the regulated carrier without the required Commission consent, ITT then concealed this fact while trying to obtain subsequent ratification of the result.

The most shocking example of the measures which ITT has employed in pursuit of this merger is its treatment and attitude towards the working press reporting these proceedings. Three reporters testified regarding contacts with ITT officials. An AP and a UPI reporter testified to several phone calls to their homes by ITT public relations men, variously asking them to change their stories and make inquiries for ITT with regard to stories by other reporters, and to use their influence as members of the press to obtain for ITT confidential information from the Department of Justice regarding its intentions. (Aug 2997–3003; Stout 3003–21). Such repeated remonstrances and requests, and the willingness to contact the reporters at home indicate [5362] a zealousness which we believe, at least, an unusual evidencing of extraordinary sensitivity to press treatment.

Even far more serious were the several encounters between ITT officials and New York Times reporter, Mrs. Eileen Shanahan Waits, known professionally as Eileen Shanahan. Miss Shanahan testified that she had been contacted by ITT officials on five or six occasions. Several were brief encounters, and she elaborated only on the four most important conversations. (Shanahan 2957).

In one short call, an ITT official, whose identity Miss Shanahan could not recall, communicated a company response in one of the developments of the case and said "something to the effect, 'I expect to see that in the paper, high up in your story.'" (Shanahan 2958).

On another occasion Mr. Edward J. Gerrity, Senior ITT Vice President in charge of public relations, came to her office with another man whose identity she could not recall. In an indirect way Mr. Gerrity asked to look at the story Miss Shanahan was then writing, a request which she considered "an improper thing to ask a reporter," a fact which she felt Gerrity also knew. (Shanahan 2959). Gerrity asked her if the Times was going to run the text of an FCC order dealing with the case (an order which commented on the lateness of the Department of Justice request for reconsideration). She indicated that it was not a significant enough document, but Gerrity persisted and said, "You mean you did not even recommend the use of text?" [5363] (Shanahan 2959–60). She described Gerrity's tone on this occasion as "accusatory and certainly nasty," and said, "He badgered me again." (Shanahan 2961). The conversation continued and Gerrity asked whether she had been following the price of ABC and ITT stock. When she indicated that she had not, he asked if she didn't feel she had a "responsibility to the shareholders who might lose money as a result of what" she wrote. (Shanahan 2962). She replied that "My responsibility was to find out the truth and print it." (Shanahan 2962).

Gerrity then asked if Miss Shanahan was aware "that Commissioner Nicholas Johnson was working with some people in Congress on legislation that would forbid any newspaper from owning any broadcast property." (Shanahan 2962). On cross-examination Miss Shanahan recalled that Gerrity had mentioned that Commissioner Johnson had been working with Senator Gaylord Nelson of Wisconsin on this legislation. (Shanahan 2976). The one of us directly involved hereby flatly denies any such collaboration, as has Senator Nelson, who further made it clear that Commissioner Johnson and he have never met. Gerrity, according to Miss Shanahan, felt that this false information was something she "ought to pass on to [her] . . . publisher before [she wrote] . . . anything further about Commissioner Johnson's opinions in anything." (Shanahan 2962). (Commissioner Johnson dissented to the original approval of the merger.) The obvious implication of this remark, as Miss [5364] Shanahan apparently recognized (Shanahan

2962), was that, since the Times owns radio stations it would want to consider its economic interests in deciding what to publish about broadcasting in its newspaper.

This single incident, one might note, evidences (1) overbearing behavior generally, (2) an insensitivity to the independence of the press, (3) a contempt for the proper functioning of government, (4) either a willingness to engage in deliberate misrepresentations of fact, or incredible naïveté in accepting and spreading unsubstantiated rumor, and (5) an attitude completely accepting the propriety, indeed the inevitability, of news reports reflecting the extraneous economic interests of a reporter's friends or employers.

The third encounter between ITT officials and Miss Shanahan was in February of 1967, after the Justice Department had filed documentary evidence with the Commission and Miss Shanahan had written a story on those filings. John Horner, ITT's head of public relations in Washington, called Miss Shanahan and immediately accused her of being unfair in her reporting. (Shanahan 2963–64). He objected to several parts of her story but particularly to her report that the Justice Department was expected to go to court if the Commission refused to reopen the case. Horner told Miss Shanahan that the Justice Department "had issued a statement saying that it would not go to court." (Shanahan 2965). She had not heard of any such statement, so she asked Horner to read it to her. He did, and the "state [5365] turned out to say that "the Department had not decided what it would do if the Commission refused to reopen the hearing." (Shanahan 2965). Miss Shanahan pointed out to Horner that he had "improperly characterized" the statement. (Shanahan 2965). Horner insisted that her treatment had been unfair, and she became angry. Her colleagues tell her that she "shouted at him." (Shanahan 2966). After the conversation with Horner had ended, Miss Shanahan checked with the Information Office at the Department of Justice because she had never heard of the "statement" which Horner had said the Department had issued. It turned out that the Department had never issued any such "statement" but that the information had been contained in a private communication to ITT. (Shanahan 2984).

On another occasion, during the course of the supplemental hearings, Miss Shanahan returned to the hearing room, having missed some of the proceedings. She encountered Horner who informed her of an incident which had taken place in her absence, and then said twice, "And I expect to see headlines just as big on this one as on what happened the other day" (Shanahan 2967)—presumably a reference to stories reporting the Hearing Examiner's comments upon discovering the applicants were violating his order by slipping notes to witnesses supposed to be uninformed of others' testimony. She characterized his tone as "insistent and nasty." (Shanahan 2968). Miss Shanahan, [5366] who has worked for The New York Times as a reporter for five years could recall only one comparable incident in all that time. (Shanahan 2970).

This conduct—in which at least three ITT officials, including a Senior Vice President, were involved—demonstrates an abrasive self-righteousness in dealing with the press, a shocking insensitivity to its independence and integrity, a willingness to spread false stories in furtherance of self-interest, contempt for government officials as well as the press, and an assumption that even as prestigious a news medium as The New York Times would, as a matter of course, want to present the news so as to best serve its own economic interests (as well as the economic interests of other large business corporations). Despite this, ITT offered no rebuttal of any of the testimony of Miss Shanahan.

The record is silent on whether the conduct was ordered, encouraged, or merely condoned by the top management of ITT. The least that can be said is that the officials involved presumably thought they were acting in accord with the wishes or policies of top management, or in the interests of the corporation. There is no evidence of any contrition on the part of the officials involved or of any reprimand having been administered to them. Indeed, although the parties characterize the conduct in their brief as seeming "overzealous to Miss Shanahan" (ABC–ITT Findings, p. 104), ITT has failed to this day to concede that it was improper.

[5367] ITT officials performed these acts and displayed these attitudes in a period which should have been filled with in-

centive for the most exemplary behavior because of the company's assurances about ABC's freedom from news management and pressure. Certainly, it is likely that never again will there be such a depth and immediacy of public scrutiny of ITT's posture in this regard. Yet, with full knowledge of this public attention, ITT not only failed to match its assurances about the future with its deeds of the present, but actually conducted itself in a deliberate manner that gives these assurances a distinctly hollow ring. If ITT behaved this way with the spotlight on it, how much credibility can be given to assurances that ITT would not be led to similar conduct when the pressures, subtle and overt, can be transmitted with a minimum of visibility and accountability? It is not unreasonable, therefore, to believe that ITT would evidence similar disdain for ABC as a press medium, whether arising from such misguided managerial élan or conflicting business goals inherent in its conglomerate and international operations.

There is no direct evidence of Mr. Geneen's involvement in Mr. Gerrity's or Mr. Horner's conduct regarding the Times. But that is no answer. Either their conduct was expressly directed, or they assumed it was what would be expected of them under the circumstances. Obviously, they were not on a frolic of their own and must have assumed they were serving ITT's interests. Even if this [5368] behavior were expressly prohibited by company policy (which has not been even suggested by ITT), ITT would then be left with the fact that it cannot guarantee ABC's autonomy. If it cannot control its own Senior Vice President's conduct it has little hope of controlling lesser officials and employees. Whatever may have been Mr. Gerrity's and Mr. Horner's instructions in this instance, however, there is record evidence that, on at least one other occasion, Mr. Geneen did expressly call on Mr. Gerrity to apply pressure to an organization which was rumored to be taking action inimical to ITT's interests. On July 11, 1966, Geneen sent a memorandum to Gerrity, in which he said:

> Leonard Goldenson tells me that Art Nielsen's company has approached them re elimination of the 30 market Nielsen ratings.

As you realize, ABC has the most interest in the continuation of these ratings because they are the one place that they can show program performance on an equal coverage basis since there are 30 markets in which all three networks are fully represented.

We have reason to believe that probably Columbia Broadcasting is behind such a move.

In any event, will you call Art Nielsen and sound him out for (a) objections to doing this; and (b) suggest in a gentle way that since ABC is in the underdog position that the elimination of these ratings at this point would have a serious effect on its advertising presentation capability and competitive position and "we wouldn't blame them at all" if they wanted to react with a Congressional inquiry *or whatever thoughts you come up with that might make him think twice about doing it.*

[5369]

Somehow or other, as long as he is getting paid for it, why should he cut it out except for reasons of such pressure. (J 322) (emphasis added).

The wording of this memorandum is ambiguous as to whether the possible reaction with a Congressional inquiry is ascribed to Nielsen (against CBS) or ABC (against Nielsen). It makes little difference. In any case the memorandum reflects (1) a premature assumption of managerial involvement in ABC's affairs before the merger was approved, (2) ire at the thought of someone bucking even a hoped-for ITT enterprise, (3) an assumption that Congressional investigations can be turned on and off by any business, and (4) that threats of Congressional investigations are an accepted way to accomplish things in the business world in which ITT travels. If Geneen was reporting that ABC might consider a Congressional inquiry, it would seem to be an example of the acceptance by both companies of the practice of business by intimidation.

The conduct by ITT lawyers during the supplementary hearings, and in preparation therefor, has been no less highhanded.

One lawyer telephoned a witness proffered by the Department of Justice, and, in a two hour conversation, tried to get

him to change three sentences in the testimony which he was proposing to give. (Hill 1704–15). On cross-examination, when asked if he felt he had been pressured, his first reaction was: "It depends. I am fairly [5370] tough, but two hours on a telephone, you know. I don't know. You can interpret that in your own way." (Hill 1721).

Earlier in the hearing another example had come to light of the disregard by ITT lawyers of the normal processes of litigation. The Chief Hearing Examiner, who was conducting the hearing, ruled on the first day that all subsequent witnesses be excluded from the hearing room while any witness was testifying. Later that same day one of the lawyers for the Justice Department complained that "Mr. Brittenham [ITT's General Counsel] was walking out with notes, and taking them into the conference room and giving them to the witnesses in there, and he so admitted to me when I saw him in the hall just a few moments ago." (R 901). The Chief Hearing Examiner immediately ruled, "The practice will be discontinued. It is improper." (R 901).

In addition the ABC lawyers must be held in large part responsible for the extraordinary testimony of Wilbur L. Ross, Jr., a general partner of the Wall Street firm of Faulkner, Dawkins & Sullivan.

ABC offered Ross as an expert witness to comment upon testimony and financing proposals offered by Professor John Burton, an expert proffered by the Justice Department. Professor Burton had incorrectly assumed that ABC's pre-tax earnings had declined 1/10 percent from 1965 to 1966. In fact these earnings had increased approximately 10.5 percent in that period. Ross knew throughout [5371] his testimony that Burton had been in error. (Ross 3776). Nonetheless, without any indication that he knew of an error in Burton's assumptions, he testified as if they were true.

Ross indicated that he had studied ABC's past earnings history and, when asked, "What did you find that to be?" he said, "We find the following pattern. Between 1961 and 1962 pre-tax earnings rose seven percent. 63 over 62, pre-tax earnings declined 28 percent. 64 over 63, they rose by 35 percent.

65 over 64 they rose by 30 percent. 66 over 65, they declined by one-tenth of one percent." (Ross 3561). An ABC exhibit had forecast a 15 percent growth in earnings per year for ABC over the next four years. (AR 3). ABC's earnings had risen in four of the past five years, but Burton's erroneous assumption indicated that they had risen in only three of those years. When asked if a lender would contrast ABC's forecast with the history, Ross testified, "Presumably you would have to explain why the future would be so markedly different from the past and, of course, *it is a very dramatic difference, whereas in two of the past years you have had actual declines in earnings as opposed to this progression* of compound growth in the future." (Ross 3561) (emphasis added). When comparing ABC with several other group owners of broadcasting stations, Ross again said "None of the group companies has any down year in earnings indicated on the whole sheet. American Broadcasting has two pre-tax declines out of the five-year period." (Ross 3576). [5372] When asked if a lender would take these differences into account, he said, "Yes, sir, I believe he would." (Ross 3576). Again in testifying about how a lender would view ABC's 15 percent projection, he said, "It is a difference from the historic pattern . . . which would be 15 percent compounding of growth as opposed to the most recent pattern from '61 through '66 *which was interrupted in two years* and in the third year of which the rate was below 15 percent." (Ross 3609) (emphasis added).

Despite ABC's counsel's later suggestion that Ross was simply comparing his results with Burton's and using Burton's assumptions, this was never made explicit, and is at odds with the direct and unequivocal nature of Ross's answers. It is also contradicted by his willingness to update other statistical assumptions by Burton with more recent information. (Ross 3566, 3571, 3572, 3575). Ross indicated that he had personally examined ABC Annual Reports going back to 1958 (Ross 3769), yet he never indicated, until pressed on cross-examination, that his conclusions were based on information he knew to be erroneous. It is impossible to tell which portions of Ross' testimony, except those adverse to the applicants' interests, are worthy of belief, because it cannot be determined how much

of it is based on inaccurate information. But more than that, ABC's attorneys must be charged with complicity in this further example of not only unhelpful but positively misleading information.

[5373] In our view, this recurrent conduct on the part of ABC and ITT officials and attorneys has gone far beyond the bounds of natural prejudice and advocacy. The examples are far more numerous than we have recited. More can be found in the Proposed Findings of both the Justice Department and the Broadcast Bureau. We cite this deeply disturbing pattern of behavior because we believe it makes it impossible to approach the self-serving testimony of applicants' officials with anything but skepticism. And it is that testimony which constitutes a major part of the majority's "justification" for this merger.

With this substantial qualification clearly documented, we now turn to an analysis of the issues in this case.

[5374] III. The Merger's Effect Will Be To Diminish Competition in Broadcasting

One of the issues in this case has been ITT's interest in, and potential impact upon, the broadcasting industry *without* the merger. Will the merger tend to discourage competition in broadcasting? If so, the public interest will not be served. In searching for the answer one inquiry necessary is the extent of ITT's past, and potential future, interest in broadcasting had it not acquired ABC. If, without ABC, ITT would have been an additional competitive influence in the broadcasting industry then the merger does, to that extent, diminish competition.

The record reveals rather clearly that ITT has had a long-standing and active interest in broadcasting and related enterprises.

Had ITT not acquired ABC, it seems likely that it would have acquired a significant group of television stations in major markets. It would then have been in a position either to start a fourth network when the time became ripe, or at least exert countervailing power in bargaining for programs with the existing networks. Without regard to its influence on networking, it would have been a substantial force in broadcasting.

Had ITT not acquired ABC, it likewise seems quite possible that ITT would have pursued its admitted interest in cable television (CATV) to the point where, had the regulatory and economic climate [5375] been propitious, it might have created a substantial competitive influence on broadcasting.

ITT might not have pursued both interests, because in certain respects they are mutually inconsistent. But active pursuit of one or the other, which seems quite likely, would have brought refreshing breezes of competition to the tightly oligopolistic broadcasting industry.

Radio and, to an even greater extent, television and networking, are businesses characterized by limited possibility for entry. Indeed, this was one aspect of the industry which ITT found most attractive. (J 238, p. 2) There are physical limitations on the number of usable broadcasting signals which can be transmitted in any given area at one time. In addition there are many other uses competing for the valuable radio spectrum. This has led to an intricate scheme of federal regulation, placing severe limits on the number of broadcasting stations in any geographical area. Thus, while the Los Angeles area has twelve authorized television stations, many populous areas of the country receive only three, two or even fewer usable signals. As a result, television broadcasting is necessarily oligopolistic.

Although this same physical and governmental restraint does not make networking (defined as the simultaneous interconnection of one or more broadcasting stations) necessarily oligopolistic, the economies of scale in program distribution have conspired with the restraints on numbers of stations to produce only three national television networks [5376] and four national radio networks. While the importance of networking to radio has declined greatly since the rise of television, the networks have continued to dominate television program production and distribution. This has meant that three large corporations are responsible for the bulk of the television programming which goes into American homes.

Anything which can be done to relieve this high degree of concentration in both local and national broadcasting is desirable. Both Congress and this Commission have recognized this

fact in the encouragement given to UHF television by the All-Channel Law (requiring that all new television sets be capable of receiving the UHF portion of the spectrum). 47 U.S.C. § 303(s) (1964); 47 C.F.R. § 15.65 (1967). Thus, to the extent that ITT might have become a competitive force in broadcasting and networking we must be particularly wary of allowing its joinder with one of the country's three major broadcasters.

A. ITT INTEREST IN BROADCASTING STATIONS

As we mentioned, last September Mr. Geneen testified that:

> We did hold some conversations from time to time in a general way, with people who purported to think we should get into stations, and that sort of thing, but we never got anywhere with that. (Geneen 592).

Let us examine for a moment the full impact of these "conversations" with "others" urging a disinterested ITT into the broadcasting business.

—Mr. John Graham, then an ITT vice president and director, suggested as early as 1963 that ITT acquire [5377] the legal limit of five VHF television stations. He was also enthusiastic about radio and UHF television stations. The reaction of Mr. Harold Geneen, president of ITT, was "very favorable." (Graham 2603). Graham testified that he and Geneen visited the Hartford station WTIC in August or September of 1963, and that Geneen there made an offer of $35 million for the station. (Graham 2599; see J 138, 139, 140, 141, 143). See Section II, *supra*.

—At about the same time ITT was actively exploring the possibility of purchasing WJIM in Lansing. Mr. Graham testified that "we initially were interested in the station and it looked to us like an excellent property." (Graham 2601). ITT "discussed with . . . [Mr. Gross, the owner of WJIM] the possibility that if he came with ITT, with the station, and we put together a

chain of stations, that he might well be interested in being manager." (Graham 2601).

—In 1964 ITT was actively interested in acquiring station WATE, Knoxville, Tennessee. (J 175, 176, 177, 178, 179).

—The company was busily engaged in researching the entire broadcast industry. (See J 174, 175, 176, 182, 207, 208, 211, 227, 230, 238, 332).

—At the same time a broadcasting station broker was exploring the possibilities of ITT's acquiring various groups of television stations. Mr. Geneen himself had indicated ITT's interest to the broker. (Stark 2635). With ITT in mind the broker spoke to the owners of three station groups, Storer, Corinthian, and Capital Cities. (Stark 2636–37).

—In February of 1965, ITT Vice President Robert H. Kenmore sent a memo to Geneen containing "background information on the leading TV broadcasting independent groups, in the event the AB–P [ABC] discussions stall." Kenmore said, "Storer and Taft appear to be the most interesting since each of them already has 5 VHF stations in the Top 50 markets, yet each seems to have some leverage potential since their stations are currently not #1 in the market . . . ." (J 222).

In short, ITT was actively pursuing the possibility of entry into television broadcasting in ways that went substantially beyond "some conversations from time to time."

[5378] Entry by purchase of one or more individual television stations, a group of stations, or application for licenses was not pursued further because "[ITT's] policy has been not to move aggressively in this direction until we would be convinced that none of the three major networks (and their group of owned stations) might be available." (J 238, p. 1). ITT's lessening of interest in broadcasting was wholly the product of its hope for ABC. Without ABC it seems overwhelmingly clear that ITT would have been, and would be today, actively pursuing its interest in broadcasting.

B. ITT'S INTERESTS IN CATV AND PAY-TV

And what did Mr. Geneen have to say about ITT's interests in CATV last September? Just "some very small CATV experimental operations," he insisted. (Geneen 516). What do the contemporaneous documents disclose? Quite a different picture.

By June of 1965, Federal Electric Corporation (FEC), an ITT subsidiary, was reporting that "A full-scale CATV effort is now underway at FEC." (J 119). Although ITT's investment took the form of loans, it is clear that its objective was to be in a position to obtain "operating control" of the CATV companies in which it was investing. (J 74). FEC's president testified that "we tried to negotiate the greatest equity option we could. We found that since we were doing this type of financing, we could get the opportunity to own a majority of the [5379] companies.... The target was over 50 percent.... I think the lowest was 55 percent ...." (Chasen 839).

The loans, as of June 25, 1965, totaled $4,150,000 to five CATV systems with future rights to control the companies. But ITT–FEC's ambitions were clearly more grandiose.

An ITT CATV status report indicated that "loans could reach $10 million in 1965 and possibly minimum of $10 million more in the first six months of 1966." (J 119). One entrepreneur, with whom ITT negotiated, testified that the ITT officials indicated "that they already spent something like $10 million invested in CATV, that within a year he felt that *they would have something like $25 million and that they intended to become the largest in the United States in CATV. . . .*" (Levey 3150) (emphasis added). Pretty expansive "small experimental operations" it would seem.

What is more, ITT was discussing and pursuing the "possibility of ownership of 'transmission channels' from one CATV area to another (with FCC approval) and the possibility of creating a network linking whole areas of local CATV's franchises ...." (J 74, p. 3; J 129, p. 3; J 199, p. 23). In response to inquiries by Mr. Geneen, two ITT officials directly concerned with CATV reported early in November 1965:

> FEC has consummate interest in acquiring interconnecting communications carriers and has looked at sys-

> tems. . . . There is no question, insofar as FEC planning is concerned, about the desirability of acquiring such systems; however, maximum attention [5380] at this point in time is being devoted to the acquisition of CATV systems. The development of FEC progress in 1966 and 1967 in the CATV field will *undoubtedly* include situations involving the possible acquisition of mocrowave carrier systems. (J 122, p. 4) (emphasis added).

This would have constituted a substantial advance in the art, and competition for broadcasting: essentially a nationally interconnected grid of wired systems that could provide a service like today's conventional "broadcasting" networks.

And ITT was also acutely aware of the interrelated possibilities of CATV and subscription television. (J 119, p. 23; J 74, p. 2). The development of a substantial system of subscription television ("pay-TV) has long been recognized as major potential, but unrealized, competition for broadcasting. In 1965 ITT was discussing the possibility of purchasing an interest in a subscription television system. (Levey 3147). And FEC was designing its systems "to minimize the cost of conversion into pay TV." (J 119, p. 23).

It is clear that, at the present time, ITT's interest in CATV, especially in large interconnected systems and pay-TV, has cooled considerably. The question is why. The applicants contend that ITT's evaluation of its CATV position was wholly independent of its interest in ABC. We think the evidence, and common sense, indicate otherwise.

As of November 1, 1965, Mr. Geneen, while still enthusiastic about the CATV and related possibilities, was cautious about the [5381] "possible high risks in such a new industry. . . ." (J 74, p. 3). A policy meeting on CATV was held on November 2, at which a tentative freeze was placed on new CATV activity by ITT. Although the company maintained some interest in its existing and even new CATV opportunities, it is clear that the more ambitious proposals were pursued no further; but the final decision "not go forward . . . at least not at that time" was not made until January of 1966. (Vollbrecht 985).

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The record is unclear on the reasons for ITT's diminishing interest in CATV and related activities. On the one hand, the unanimous testimony of all ITT officials is that the possible merger with ABC played no part whatsoever and was not even mentioned at the November 2 meeting at which the freeze was imposed. But, although detailed records are available of other meetings, no minutes of that significant meeting are extant. (Chasen 930–31; Vollbrecht 998; Geneen 1809–10). The parties argue that the merger possibility could not have entered into the freeze decision because discussions with ABC had been suspended at the time and were not resumed until two weeks after the November 2 meeting. (ABC–ITT Findings, p. 81). But this is hardly persuasive, because it was Mr. Geneen who reinitiated discussions with ABC on November 16, 1965. (Goldenson 1486). Whether or not he mentioned it at the November 2 meeting, Mr. Geneen may well have considered the merger possibility in arriving at the freeze decision.

[5382] Moreover, there is significant evidence that the merger possibility did play a part in the suspension of ITT's more ambitious CATV plans. ABC and ITT entered into a preliminary contract of merger on December 7, 1965. Later the same month, an ITT official prominently involved in ITT's CATV activities sent a memorandum to Mr. Geneen with regard to ITT's CATV plans. In it he said:

> We have not yet been able to satisfy ourselves on a go or no go decision. We expect to do this within the next two weeks.
>
> We are aware of the need of cooperation with ABC and plan to work out the details as soon as our internal planning has been completed. We also plan to request their audit of our decision to go or no go. (J 126, pp. 2, 4).

ITT officials offered two interpretations of this language emphasizing the need of cooperation with, and "audit" by, ABC. One felt it meant ABC would comment on ITT's check list for evaluating CATV systems, because the "ABC people have an expertise in broadcasting." (Vollbrecht 971). Another wanted to discuss with ABC which programs to carry on multi-

channeled systems. (Chasen 892). Unfortunately these appear to be not too ingenious afterthoughts. Much more plausible is the hypothesis that ITT wanted to discuss with ABC whether its CATV plans were a wise investment for an owner of a major broadcasting network. This is the only discussion which would amount to an "audit of our decision to go or no go." In short it is reasonable to conclude from the record that ITT's apparent "no go" [5383] decision was attributable, at least in part, to its decision to merge with ABC. The demonstrated willingness of ITT officials to minimize the facts adverse to their cause makes their protestations to the contrary of little probative value. Indeed, in a 1967 summary of ITT's CATV activities, possible "conflict with broadcasting operations" is cited as one possible reason for not continuing in the CATV business. (J 363, p. 5).

C. COMPETITIVE IMPACT OF ITT'S INDEPENDENT ENTRY INTO BROADCASTING AND CATV

It is clear that ITT put aside its intense interest in other broadcasting properties when it decided to merge with ABC. And it seems quite possible that ITT's "no go" decision in CATV and related fields was, at least partially, attributable to the merger decision. But the question still remains whether ITT's choice of merger rather than one or both of the other possibilities (broadcasting and CATV) has or will have a detrimental effect on competition in broadcasting and networking.

ITT and ABC argue that there is no evidence that ITT ever contemplated starting a television network on its own. While this is true it evidences too narrow a focus in assessing the competitive possibilities. Intent can hardly be determinative, for business possibilities go through a constant process of evolution, and the unintended remote possibility to today may be tomorrow's eagerly pursued business venture. [5384] This is surely the import of the Supreme Court's recent unanimous decision in Federal Trade Commission v. Procter and Gamble Co., 35 U.S.L.W. 4329 (April 11, 1967), where potential entry by the acquiring firm was one basis for disallowing a merger

despite the absence of management intent to enter the market by internal growth.

ABC and ITT have suggested that there are more probable independent entrants to the network market than ITT. Even were this true, it is not determinative of the merger's impact on competition in broadcasting. But let us examine the network argument.

Mr. Goldenson indicated that multiple owners in major markets which already produce programs for syndication were much more likely to start a fourth network than was ITT. As examples Goldenson offered Metromedia, RKO General and Westinghouse. (Goldenson 1679). This seems plausible, but, if ITT were to have acquired a number of individual stations, or a group, the possibility of its venturing into networking—with ITT's vast resources and technological capabilities—might well have equaled or exceeded that of the other independent groups. ITT's active interest in broadcasting in general, and groups with five VHF's in the top markets in particular (J 222), likely would have placed it in that very situation had it not been for the merger. Thus, if ITT were to acquire any of the group owners which Mr. Goldenson deemed to be the most likely network entrants, it would, by that fact, be at the edge [5385] of the network market. In truth, the likelihood of a fourth network is remote at this time. But this is due largely to a paucity of stations available for affiliation in major markets. (Goldin 3051–53). ABC and ITT admit that the increasing viability of UHF stations will provide the outlets which will make a fourth network feasible. (ABC–ITT Findings, p. 70). Should full UHF development come about in five or ten years—as now seems quite possible—ITT would have been one of the few most likely entrants into the network market if it owned a substantial group of independent stations in major markets.

It is a mistake, however, to think that national networking is the only relevant competitive arena. One of the possibilities ITT was considering was acquisition of a string of UHF licenses. (J 207, p. 3). Well-financed UHF stations may well invigorate television competition in their individual markets, regardless of the possibility of their developing into a national

network. Indeed, a chain of VHF stations, controlled by a company with the resources of ITT, might well bring a healthy competitive influence to bear on the networks even if it does not undertake network operation. It is likely that the ownership of a group of stations by Westinghouse, with its resources for syndication, has had an influence in keeping network prices down and quality up. ITT, as a group owner, would exert a similar influence, and this would be competition.

[5386] Whether the competitive influence which will be foreclosed by ITT's acquisition of ABC amounts to a violation of Section 7 of the Clayton Act, 15 U.S.C. § 18 (1964), is really irrelevant. We are not enforcing the antitrust laws, but rather weighing the potential benefits and the potential harm of this merger. The likely competitive loss from the foreclosure of ITT from acquiring independent stations is substantial and significant.

Perhaps as significant is ITT's now abandoned CATV activity. There can be little doubt that the competitive potential for CATV, and for ITT in CATV, was and is very great. By multiplying the number of signals brought into the home, CATV provides numerous alternatives to the broadcasting fare of the existing three networks and any independent stations available. This again is competition. ABC has certainly recognized the competitive threat of CATV. It has taken a strong position before this Commission in opposition to the uncontrolled proliferation of CATV operations. See ABC petition in Docket 15971 (Oct. 16, 1964).

It is true that this Commission's regulatory scheme is preventing the unrestrained growth of CATV systems. See CATV Second Report and Order, 2 F.C.C. 2d 725 (1966). But the regulatory issues in the area are not finally resolved, and CATV continues to grow apace despite the Commission's regulatory inhibitions. Thus we stressed in the CATV Second Report and Order, 2 F.C.C. 2d 725, 788–89 (1966),

[5387]

> that we are not committed to the status quo—to protecting existing investment against new technological advances. The whole history of this art has been one of

> great change, from radio to television to perhaps tomorrow satellite broadcasting or laser communication. It may be that CATV, if allowed full unfettered growth, would prove to be an excellent supplement, bringing additional service and diverse programming to millions of people in built-up areas who can afford it, without detriment to the provision of additional local broadcasting service to the entire Nation. If so, the information obtained in the hearing process will provide that indication, and will be the basis for authorizing such growth. But we cannot make that judgment in the record now before us—and, instead of the above picture of wire television as an excellent supplement, there is the possibility that the Nation might find itself with a system half wire, half free, which is destructive of the larger goals of additional networks, additional outlets for local expression, and which provides increased service to some in the city at the expense of those in the rural area or those who cannot afford to pay. It is, we think, time to get the facts, and in light of the service presently available, there is time to get the facts.

The three of us are not of one mind on what the final resolution of the CATV conundrum should be. But we do feel the Commission should not foreclose future options when the industry is so obviously in a state of flux.

ITT and ABC argue that there is no evidence that CATV competition to broadcasting will be diminished because of the loss of ITT. The parties point to other "substantial firms" in the CATV industry, but they introduced no evidence to show how these firms compared with ITT; and no company to which they can point, except General Electric, seem to have resources comparable to ITT. (See ABC–ITT Reply Brief, p. 58). There is record testimony that ITT intended to become the [5388] nation's largest CATV owner. (Levey 3150). Its consideration of an interconnecting grid to link up various areas of the country could have a marked impact on competition in broadcasting and is not shown to have been considered by any other company. And, finally, probably no other company in CATV, not

even General Electric, has the experience with cable communication and research which is one of the strengths of ITT.

Again we note that whether or not the merger constitutes a violation of the Clayton Act is not the issue. ITT may well have abandoned its CATV operations because of the merger, and that abandonment may have serious implications in dampening competitive forces in broadcasting.

[5389] IV. The Merger Will Tend To Impede Growth of Communications Technology

Another disputed issue in this case is the impact of the merger on competition in broadcasting and related technologies. The applicants contend that ITT's incentives to innovation will be heightened by the merger. We believe ITT's alliance with the status quo in American broadcasting would produce quite the contrary result. Here's why.

How about UHF technology? The record reveals minor incentives which ITT might have as a result of the merger to foster technological advance in UHF broadcasting. It appears, however, that retardation of UHF technology would be more in ITT's long range interest. And in other areas of broadcasting and communications, it is quite clear that ITT's interest after the merger will be in impeding and obstructing rather than advancing new technology.

The pace of technological innovation with implications for broadcasting has been advancing and continues to proceed at an almost revolutionary pace. Cable television and satellite transmission have been the two most monumental developments of the past decade. The near future can reasonably expect some developments in UHF transmission and reception, ground transmission through further cable developments, new techniques such as lasers, even domestic transmission by satellites, and possibly satellite-to-home broadcasting. Other yet more revolutionary breakthroughs cannot now be specified; but if the recent past is [5390] any indication, entirely new techniques will continue to develop. The pace and direction of these developments is, however, not yet determined and will

be seriously affected by the economic incentives of the various companies involved.

ABC and ITT have made much of the aid which ITT will give to UHF broadcasting. ABC has significantly fewer primary television affiliates than either of the other two national networks—137 for ABC to CBS's 192 and NBC's 206. If UHF reception and transmission can be improved, the parties argue, ABC will stand to benefit because, as more and more television sets have UHF capability, more profitable UHF stations with competitive audiences will be available for ABC as potential affiliates. And indeed there is some evidence that ITT has intensified its UHF research since the merger was agreed upon. There is plausibility and, we think, a certain validity to this argument. But the great advance of UHF will come about quite naturally as a result of the 1962 All-Channel Law and FCC implementing regulations. 47 U.S.C. § 303(s)(1964); 47 C.F.R. § 15.65 (1967). ITT may be able to affect the quality of UHF reception, but it is virtually powerless to affect the quantity of sets receiving UHF. (Better reception might stimulate set sales, but this affect would most likely to be very slight.) Most set manufacturers have incentives similar to any ITT might possess to improve UHF reception, so that ITT's ultimate impact would, in any case, probably be slight.

[5391] More than this, however, we think the supplemental hearing has demonstrated the extent to which ABC's interests with respect to UHF are really quite ambivalent. While there can be no doubt that primary affiliations are important to a network, it now appears that ABC has been able to overcome the gap in affiliates to a great extent through popular programming. This fact was not fully apparent to us at the time of the September hearing. Commission rules forbid stations from foreclosing themselves by contract from carrying programs by networks other than that with which they are primarily affiliated. 47 C.F.R. § 73.134 (1967). Thus ABC has succeeded in clearing its programs on many more stations than its lineup of primary affiliates would indicate.

Despite the fact that ABC's 137 primary affiliates reach 93.4 percent of the national television audience, in prime time

ABC's programs are in fact carried on approximately 176 stations reaching 96.8 percent of the audience. In prime time CBS and NBC are not able continuously to command time on their 200 or so primary affiliates. CBS averages about 186 stations and NBC about 189 and they reach 98 percent and 97.8 percent of the prime time audience respectively. (Sonkin 3381). ABC's success in obtaining prime time exposure despite its affiliate deficiency is further demonstrated by the fact that ABC receives approximately 31 percent of prime time network revenues while obtaining only 27 percent of total network revenues. (See J273.)

[5392] Thus, it is in the early morning and late night, when NBC dominates network television, and the daytime hours, when CBS holds sway, that ABC's overall performance falls behind. The clear import of these figures is that if ABC could improve its programming in the nonprime time hours, its affiliate deficiency would be a surmountable obstacle. This is not to say that affiliates are of no importance. Other things being equal a station will probably not change affiliations and will prefer to carry the programs of its primary network. But it is reasonable to say that ABC can advance and advance markedly—as it has done in prime time—without a significant increase in the number of affiliates available.

The other side of the UHF coin is that the great increase in the number of stations which a viable UHF will bring may well provide significant competition to the existing networks; and ABC as the weakest network would be the most vulnerable. (Goldin 3053). ABC and ITT recognize the threat from UHF, for they have stressed to the Commission that "by enhancing the viability of UHF broadcasting the merger will help to open the way to a fourth television network whether such a network takes the form of the present three networks or develops as some kind of specialized service." (ABC-ITT Findings, p. 70). Since ABC can narrow the gap between itself and its rivals by beefing up its non-prime time programming schedule, ITT might be courting economic disaster by giving all out support to UHF. In fact, the basic document [5393] presented to the ITT Board in support of the proposed merger, stressed the "limited access

to new competitors" as part of the "unique attraction of the television broadcasting business." (J. 238, p. 2).

In short, since ITT is largely powerless to affect the UHF advance one way or another, and since its economic incentives with regard to UHF are ambivalent at best, there is no real reason to think that UHF will be aided by the merger.

In other areas of technological advance the evidence is quite unambiguous that the merger will act as an inhibiting force on ITT. ABC has clearly expressed itself in opposition to the proliferation of cable television. Likewise the perfection of satellite-to-home broadcasting, with the consquent bypassing of local television stations, would seriously disrupt the present system in which ABC and the other networks have a very great investment. ABC's most valuable properties are its owned and operated stations—which might very well be rendered obsolete by satellite-to-home broadcasting. (See Geneen 1857–58).

Equally clear is the fact that ITT is one of the companies best situated to make advances in these areas of technology if unencumbered by a $400 million investment in the status quo. Bogdan R. Stack of the Stanford Research Institute testified that "the ITT corporation [is] in a *unique* position of having proven competence and capability to design, engineer, and install communications systems for use in practically [5394] any country in the world." (J 337, p. 3) (emphasis added). Dr. Joseph V. Charyk, President of Comsat, testified that ITT is one of the four "most important [companies] in producing the communications equipment used in satellites" (J 339, p. 1), and that "ITT ranks among the top five companies in the field of satellite communications considering its capabilities in research and development, manufacture, and operation of telephone and telegraph systems." (J 339, pp. 1–2; and see J 337).

Professor Hill of the Massachusetts Institute of Technology testified that "the industry presently involved in television broadcasting and set receiver manufacturing does not have a real incentive to change its present technological structure, except for minor improvements in sets, unless this change benefits the industry." (J 334, p. 1). Professor Hill's conclusion is worth quoting in full. He said:

> Turning to the ITT–ABC merger, and the issue of combinations between technology firms and large broadcasting interests, there is little basis for the suggestion, which is apparently advanced in this case, that the merger will contribute in a significant or major way to technological advances in the field of TV broadcasting. This does not rule out advances in components and techniques. The merger would result in another large communications-broadcasting firm, and there is no evidence that the new organization would have incentives different from its competitors. (J 334, p. 2).

Likewise Dr. Charyk testified that whether technologically feasible innovations "will be actually introduced and the time span in which they [5395] will be introduced will depend on a variety of factors, including competition, economic cost and profitability, incentives to innovate, and resistance to change engendered by the present structure of telecommunications and broadcasting." (J 339, p. 3).

The merging parties' basic answer to this impressive array of expert testimony is that "any company based on technology must compete and in order to survive it must improve its products and its operations even where this makes existing products and operations obsolete." (ABC–ITT Findings, p. 89). This argument either misconstrues the thrust of the economic disincentives which will be presented or is simply a further example of the applicants' disingenuousness in economic analysis. Of course, even a monopoly such as AT&T will, at times, make technological advances. (Hill 1752). But the fact remains that in concentrated industries, such as broadcasting and telecommunications, where ITT's technological qualifications and capabilities are matched by only a few firms, occasions will undoubtedly arise when ITT's interest is clearly to retard innovation and advance because of its investment in ABC. Absent that investment, the incentive might be to proceed.

If record evidence is necessary to illustrate this rather clear fact of economic life, it can be found in Mr. Goldenson's testimony at the September hearing: "I am not so sure we would have such a receptive ear if we went to RCA to help us in markets where we would be in [5396] competition with RCA, . . ."

(Goldenson 277). Likewise the testimony is uncontradicted that the criterion employed by ITT in evaluating proposed research and development is the "overall company benefit." (Cookson 2873). Thus, the only reasonable conclusion is that ITT, as a result of merger with ABC, would experience definite disincentives to technological advance in increasing the numbers of channels of access into the home for information and entertainment. Because ITT is one of a very few companies likely to make significant contributions to such advance in the future if not merged with ABC, approval of the merger will deprive the economy and the public of possibly significant technological developments.

The record is also clear that other companies with communications technological resources and abilities would be inhibited from vigorous research and pursuit of developments as a result of the merger. A statement was submitted for the supplemental hearing by Paul Visher, Assistant Manager of the Space Systems Division of the Hughes Aircraft Company. (J 338). Hughes, along with ITT, according to Comsat President Charyk, is among the four most important companies in producing satellite equipment. (J 339, p. 1). It was Hughes which developed a synchronous communications satellite system and, before the merger proposal, convinced ABC, as a large potential user of such a system, to sponsor a proposal for a synchronous domestic satellite before the FCC. Visher, quite understandably, concluded that, "If ABC had been connected with ITT, Hughes would not have felt it was [5397] either wise or potentially fruitful to approach ABC with such a proposal." (J 338, p. 2). And the equally obvious lesson which Visher drew was "the general importance of keeping communications users separate from technology firms in order to assure a market for existing technology firms and thus encourage them to do communications research." (J. 338, p. 1).

No rebuttal of Visher's statement was offered by ABC or ITT, and their only contention now is that, "This lone industry witness contrasts with the 'several hundred' corporations working in areas relating to broadcast-technology innovations." (ABC–ITT Findings, p. 93). Of course it was neither necessary nor practical to parade representatives of all broadcast-

technology firms to testify to the same inhibitions; surely Visher's testimony shifted the burden of going forward to the applicants. But in any case the record is clear that Visher was a representative of one of the leading firms, not just one of several hundred, and Visher's firm had recently focused very carefully on the issues of cooperating with a network in the introduction of important new technology. Accordingly, we find ourselves necessarily agreeing with Visher that independent firms will be inhibited in their research and development if the merger is approved.

[5398] V. THE MERGER WILL SUBSTANTIALLY IMPEDE ABC'S INDEPENDENT POSITION AS A USER OF COMMON CARRIER COMMUNICATIONS SERVICES IN PROCEEDINGS BEFORE THE FEDERAL COMMUNICATIONS COMMISSION

All three networks are large users of common carrier services. This includes both domestic service where AT&T is the principal supplier and international service where "Comsat estimates that during the years 1967–71 an average of 10% of all Intelsat circuits will be allocated to TV. . . ." (J343, p. 19).

The international carriers, including subsidiaries of ITT and RCA, have a strong interest in the manner and cost at which Intelsat services are made available to the private users for at least three reasons. They are stockholders of Comsat, the dominant force in Intelsat. They own varying but large portions of the earth stations whose facilities are necessary for Intelsat service. And, most important, in the usual case, only the international carriers have access to Comsat and through it Intelsat, so that the private users must contract with the carriers in order to obtain the international satellite service.

A history of the positions which the various integrated and unintegrated carriers and networks have taken before the Commission on recent common carrier proposals is pregnant with lessons on the likely effect of the merger. The record reveals that NBC, the RCA-owned network, fails to object to proposals in which RCA, the common carrier, has a strong interest. Likewise the carrier refrains from objecting when NBC is a forceful advocate. The independent networks, [5399] ABC and CBS, arrive at independent positions. Is it not reasonable to assume

that this merger will likely result in an ABC–ITT pattern similar to that now exhibited by NBC–RCA?

As might be expected the "carriers have unanimously opposed direct noncarrier access to Comsat and sought instead to safeguard their own status as sole 'authorized users.' " (J 343, p. 22). This includes divisions of both ITT and RCA. Most of the large noncarrier users, including ABC, sought direct access to Comsat. The most notable exception was NBC, wholly-owned subsidiary of RCA which filed no comments. (Stipulation No. 1). Likewise, when the Commission authorized direct television network leasing of circuits in the Early Bird satellite and the international carriers petitioned for reconsideration, ABC and CBS opposed, but NBC did not. (J 343, p. 30; Stipulation No. 2).

Although communications satellites are not yet in general use for domestic transmissions, there are no remaining serious technological barriers to be overcome at this time. Indeed, ABC sponsored the first proposal for a private domestic satellite system. Perhaps the principal regulatory issue in the area of domestic satellites is whether Comsat should be the sole authorized owner and operator of any such system. The networks, especially ABC and CBS, have opposed such exclusive rights for Comsat. The position of the international carriers is, however, more ambivalent. They do not operate [5400] domestically, and hence the implications of this development are not of direct concern to those carriers. Though they are excluded from domestic traffic, as large stockholders of Comsat they will obtain indirect revenue from a Comsat monopoly. And the precedent of private operation of domestic satellites might undermine Comsat's and the carriers' international position. On the other hand, ITT and RCA, of the companies controlling major international carriers, are also in the business of supplying hardware for satellite systems. A proliferation of domestic systems would provide additional demand for this hardware.

From this complex of economic incentives most international carriers, including ITT, have determined to oppose the networks' espousal of private domestic systems—at least for the

near future—except for RCA, whose common carrier subsidiary did not enter the domestic proceeding. (Stipulation No. 4).

It is difficult to escape the conclusion from this examination of recent issues in the common carrier field that the divergence of the positions of the NBC–RCA complex from those of the other networks, and carriers, is attributable to the intracorporate balancing of interests within RCA. (See Levin 2897). And we think it quite reasonable to assume, and we find, that after merger with ABC, ITT will engage in the same kind of internal balancing, with the consequent loss to the Commission of yet another voice on issues where network and [5401] carrier interests diverge. In some areas the loss of this voice, while unfortunate, might be tolerated because numerous comparable entities remain. On the authorized user question, ABC was one of nineteen private users opposing exclusive carrier access. (J 343, p. 29). But networks—of which we have but three—are rather specialized users of communications facilities with separate interests. For example, it was only the networks which were originally granted direct access to Early Bird circuits. In such instances loss of ABC's independent views will be quite significant, because the independent networks, not only two, will be reduced to one. To say that independent presentations are insignificant because ultimate decisions must be made by the Commission is extremely shortsighted. As is well illustrated by this very case, independent advocacy can develop very significant ideas and pertinent evidence.

But the most serious loss from silencing ABC will be its championing of new and different proposals. ABC's proposal for a domestic satellite system—which led to the famous Ford Foundation proposal for funding educational television—was a particularly dramatic example. Would it have come to fruition had ABC been joined with ITT? We doubt it, and Mr. Visher is in full accord. In these cases, of course, the existence of the Commission fills no part of the gap left by elimination of an independent voice.

[5402] Because the applicants persist in the assertion that ABC will not be inhibited from taking independent positions, we are compelled to give the matter our further attention.

While Commission consideration of this case was pending, ITT issued a Policy Guide, governing relations between itself and ABC (AR 4). That Guide states:

> ABC shall independently determine its position on particular satellite or other communications questions and present its views to the FCC as to how the Commission should resolve such issues, and any other interested ITT System company or group shall similarly formulate and present its views to the FCC or to other Governmental bodies or agencies considering the question without regard to the interests of ABC as a broadcaster.

Setting aside for a moment the question of credibility of any self-serving policy statements issued for the purpose of pleasing this Commission, it should be noted that such a policy would establish a radically different relationship between ABC and the various ITT companies than currently exists within the ITT "family."

A former ITT executive testified that he left the company because "in ITT the [central] staff does indeed have a considerably heavier bearing on the operations than they do in most companies that I have worked for." (Graham 2615). In "most companies," he explained, "staff is primarily a service to line officers and it doesn't assume quite the same equality of relationship." (Graham 2609). Another difference between ITT and most large companies, he continued [5403] "is that the divisional comptrollers report back to New York to the comptroller in New York on a line basis, which keeps a pretty firm financial control at the central headquarters." (Graham 2609). This testimony is thoroughly corroborated by that of other ITT officials and the documentary evidence in the case. For instance, although Federal Electric Corporation had been handling all of ITT's CATV activities, late in 1965 Mr. Geneen placed Jack Vollbrecht in charge of CATV, "to keep his eye on it for me." FEC president Chasen was to be advised accordingly. (J 134, p. 3). And Chasen agreed that "FEC may not make any CATV plans or proposals in a territory served by an independent [telephone company] without the understand-

ing and concurrence of N. A. Telcom [an ITT group] . . . [which in turn] may not participate in any CATV work without understanding and concurrence of FEC, and that conflicts between [N. A. Telcom] and FEC would have to be resolved by ITT headquarters." (R 904; and see J 79).

Indeed, while insisting that ABC would be an "autonomous" subsidiary of ITT, Mr. Geneen uses a somewhat different definition of that word than is normally employed:

> Autonomy is a delegation of authority generally within an agreed sphere of operating policy, and it works on a basis of continuous information and review, which means it is constantly updated as to policies. . . . Autonomy is a controlled operation but with a framework which makes sense as I tried to describe it, in day-to-day operations, operating decisions, short- and long-range planning, agreement on overall policies, the need and duty to be informed both ways. . . . the ultimate responsibility [5404] in the ITT Board, the delegation of authority within agreed policies, plans, and so forth, and the constant interplay of information which means that it will work or, if it did not work, it would immediately be subject to minor correction, or whatever adjustments or understanding would be. (Geneen 552–54).

With such an understanding of "autonomy" governing the relations between ABC and ITT, one would hardly expect independent operation by ABC. And indeed, even before the merger has been consummated, ITT executives had to be warned "that there has been an unusual number of contacts between personnel of ITT, including our subsidiaries and divisions, and ABC. These have been not in the regular course of business but on the basis that 'ABC is now a member of the family.' " (J 321). This premature and zealous conduct rather neatly illustrates the extreme difficulty, and, we think, impossibility, of trying to insulate certain areas of ABC decision-making from ITT influence after the company has been taken into the "family." In September, Mr. Geneen assured us that ABC would be "autonomous" because all ITT subsidiaries are "autonomous." Now, when it has become apparent that the

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ITT system is highly centralized, we are told that ABC's relationship to the ITT parent will be "unique." Obviously ITT can characterize the past or future any way it wishes. But if we wish to insure a certain type of relationship we just as obviously had better look for more solid evidence than self-serving characterizations adopted and discarded at will.

[5405] Furthermore, even with the Policy Guide to assure them of their autonomy, ABC personnel cannot help but realize that the decisions they reach will have a business impact on the parent company and that "the boss" will be more pleased by some decisions than others. For example, after ITT acquired Avis Rent-A-Car, FEC president Chasen undertook, without any direction from central headquarters, to rent Avis cars when they are available. (Chasen 909–10). And, if Chasen was correct that there was no central directive, other ITT officials just as surely sensed the way to further the overall ITT interest. For Avis' share of ITT automobile rentals jumped from 29 percent in pre-acquisition 1964 to 82 percent in 1966, the first full year of ITT ownership of Avis. (AR 87).

Thus, even if one gives credit to the Policy Guide, it is fanciful to think that ABC will be able to reach decisions unaffected by its merger with ITT.

[5406] VI. The Merger Will Adversely Affect the Independence and Integrity of ABC's News and Public Affairs Programming

ABC news and public affairs is probably one of the three most important electronic journalistic mediums in the country, and will likely continue to increase in importance in the near future. Recent surveys have indicated that television is the primary source of news for a majority of the American people. Any threat to the integrity of this news organization must be a matter of the most serious concern to this Commission and the American people. In the light of the extensive evidence adduced at the supplemental hearing on this issue—and the extraordinary spectacle of the applicants' conduct during the hearing—we must conclude that there is a very significant danger that ITT's other interests will be allowed to intrude on the journalistic functioning of ABC and subvert the proper use of this

electronic outlet for independent information, news, opinion and public affairs programming.

ITT is a prototypic conglomerate with subsidiaries engaged in telecommunications services, sales of telecommunications equipment, sales of consumer goods, the insurance business, renting cars, book publishing, government defense and space contracts, and a host of other diverse economic activities. But in one respect ITT is different from the usual American conglomerate. In origin and in predominant complexion ITT is a foreign-based company. In fact the company's foreign involvement was so extensive in 1934 that Section 310(a), [5467] 47 U.S.C. § 310(a) (1964), prohibiting foreign control of radio stations, was included in the Communications Act of that year *because of concern specifically about ITT*. See *Hearings on S. 2910 Before the Senate Committee on Interstate Commerce,* 73d Cong., 2d Sess. 118–35, 160–73 (1934). *Hearings on H.R. 8301 Before the House Committee on Interstate and Foreign Commerce,* 73d Cong., 2d Sess. 20–28, 206–32 (1934). Although the dominant stockholdings of the company have always been American, the revenues of ITT have continually been derived mostly from foreign sources. And, despite a recent drive to enlarge the domestic revenue sources, almost 60 percent of the total ITT revenues continue to come from abroad.

ITT's continuing concern with political and economic developments in foreign countries as a result of its far-flung economic interests is now fully documented in the record. See extracts from ITT Board of Directors and Executive Committee Minutes from January 1, 1963 to March 8, 1967 in the record as AR 83. These clearly show ITT's recurrent concern with internal affairs in far-flung countries of the world, including rate problems, tax problems, problems with nationalization and reimbursement, to say nothing of ordinary commercial dealing. For example, at a meeting of August 14, 1963,

> A review was made by the President of the current status of the [tax claim by the Japanese government]. . . . It was indicated that the Corporation foresaw little hope of success if the matter were to be decided by the Japanese courts. A discussion was held of

the possible means of getting political help in resolving this case. (AR 83).

[5408] On July 8, 1964 it was reported that a representative of Secretary of the Treasury Dillon had returned from Tokyo where he had discussions concerning ITT's problems. (AR 83).

A revealing example of the high levels at which such international commercial negotiations can take place is documented in the so-called "Deep Freeze" documents. (J 261). "Deep Freeze" was an ITT proposal to lay an extensive network of cables for defense and commercial purposes from Canada to Britain via Greenland and Iceland during the period 1954–56. The Hearing Examiner, after receiving the documents and testimony about the project, later ruled them inadmissible because the events with which they dealt were so remote in time as to have no probative value with regard to ITT's conduct today. (R. 2810). We think this ruling was in error because it misconstrued the principal purpose for which the evidence was proffered. Although the remoteness in time diminishes the relevance of this evidence in evaluating the likely conduct of today's chief executive officers of ITT, the evidence is still quite relevant to show the very high government levels at which such commercial dealings of international corporations can proceed. This is fortified by the corroboration available in the Board minutes showing that representatives of Secretary Dillon interested themselves in ITT's problems in Japan.

[5409] Deep Freeze encountered opposition from government agencies in Britain and Canada which objected to foreign commercial control of this vast cable network. On June 20, 1954 Mr. Ellery Stone, then President of the Commercial Cable Company, an ITT affiliate and still an ITT Vice President and Director, sent a letter to Sir Thomas Spencer, then Chairman of the Board of Standard Telephone & Cables Ltd., another ITT subsidiary, and still a Director of that company. That letter shows the high foreign political connections upon which ITT hoped to capitalize. Stone said,

> I know Sir Roger Makins, your Ambassador here, very well and also Sir Harold Caccia who is now in the Foreign Office. Caccia was my British political adviser

> in Italy for one year. Also, Harold MacMillan, who is being mentioned over here as successor to Mr. Eden if and when Sir Winston retires. I served with Gen. John Harding in Italy when we were both under Alex, and Admiral McGriger, First Sea Lord, served under me in Italy, so I am hoping at least to be received by these gentlemen should we run into serious trouble due to RCA opposition. (J 261(b)).

As it turned out Stone was successful in personally putting ITT's case before his old friends. On November 5, 1954, he sent a cable to Forest Henderson, then Executive Vice President of American Cable & Radio Corporation, yet another ITT subsidiary. Stone said,

> Had meeting with MacMillan Minister of Defense Tuesday, 20 minutes of which were devoted to briefing him on Deep Freeze. . . . Half way thru our meeting he dictated memo to permanent Secretary of his Ministry, advising of his relationship with me during war, my present position, the [5410] cost and route of Deep Freeze and the JCS [United States Joint Chiefs of Staff] support saying that he understood our application had been pending for some time before HMG [Her Majesty's Government] and was of interest to BPO [British Post Office] CandW [identity not stipulated but presumably a Canadian Government Agency] and his Ministry. He suggested that he be informed soonest where the matter stood.
>
> I informed Mr. MacMillan that I had heard that becos [sic] of possible divergence of opinion between BPO and CandW, BPO might refer to PM [Prime Minister] and I asked for an opportunity to be heard at highest level if there should be possibility of a negative or restrictive decision. . . . I really feel much good was accomplished becos [sic] of MacMillian's strong position in Government. (J 261 (i)).

And on November 11, 1954, MacMillan wrote Stone, saying, "I assure you that we are going into the whole matter with the hope of reaching a decision as soon as possible." (J 261 (k)).

Similar high level negotiations were going on in Canada with such secrecy that ITT was determined not even to allow the United States State Department to find out about them. On November 26, 1954 Forest Henderson sent a cable to Ellery Stone. Henderson said,

> Have just had phone conversation with Martin Montreal [E. J. Martin, now and then representative of The Commercial Cable Co. for Canada]. He had just finished talking with our counsel [Gordon MacClaren, ITT special legal counsel in Canada] who had received call from [Lester] Pearson Minister of External Affairs Thursday p.m. who requests we keep following information completely confidential. . . . he told our counsel that NATO was now involved and that various countries within NATO were going to consider it. . . . Martin called Bryce [Canadian [5411] Cabinet Secretary] . . . after receiving this information and explained situation to him outlining Pearson's conversations to our counsel and pointing out fact that we had been promised a reply soon on our application by Canadian Government. Bryce replied that he was going to consult immediately with the various ministries involved and would give Martin a report today Friday which Martin is going to relay to me. This report from Bryce will also be strictly confidential but it will help us to know the lay of the land and guide us in making further plans and decisions. We feel that it is high time for our State Department to step into this picture with a strong message to the PM's of all countries involved requesting immediate attention to our project and favorable action on same. . . . because of following sentences and strictly confidential nature of above information we do not propose to divulge same to State Department. It is of greatest importance that above information coming from highest government source not be mentioned to anyone, including military person. It is pointed out that should the above become known the consequences would be disastrous. (J 261(m)).

In direct violation of express FCC regulations, 47 C.F.R. § 43.52 (1967), these negotiations, and the numerous others detailed in the various parts of J 261, were never reported to the FCC. (Ende 2669–70).

Although several of the individuals involved in Deep Freeze are still associated with ITT, we do not rely on these events as evidence of the likely conduct of the present top management of the company. They do, however, illustrate the type of negotiations in which an international company such as ITT may get involved.

Moreover, ITT still has a policy of involving those with present and past high political connections in its various business [5412] operations. The officers and directors of its foreign subsidiaries include two members of the British House of Lords and one of the French National Assembly. Another is a former premier of Belgium. And several have positions with ministries of foreign governments as officials of government-owned industries. See Reply No. 1 accompanying Letter from Mr. Harold S. Geneen to Commissioners Robert T. Bartley, Kenneth A. Cox, and Nicholas Johnson, Nov. 7, 1966. This may or may not be an excellent way to run ITT's business, but it does involve that company very closely in affairs in foreign countries and in the way our country views those affairs. A distinguished director of ITT, and one who has held high government posts in this country, testified in September that ITT tries to work closely in maintaining good relations with countries in which it has operations. (McCone 146). In short there is every reason to think that the 1945 analysis of FCC Chairman Paul Porter is applicable today. Porter said,

> I may analogize the present situation in the communications field to that in ocean transportation in the past. There was a time when the master of a vessel was in effect the diplomatic representative of his country in contact with the governments in the foreign ports where he touched. That situation is not altogether unlike our present situation in which the managements of the international communications companies are in a position to shape our international communications

> policy through their ability to negotiate and make arrangements with the representatives of foreign governments. Indeed, managements of communications companies may at times be in the position [5413] of serving interests other than our own national interests. At the International Communications Conference held at Warsaw in 1936, at which the United States was represented by its Government officials, a number of persons connected with our United States Carriers were present and actively participated in the conference as members of delegations of certain Latin-American countries. Such situations and circumstances whereby our carriers may, because of the necessity of protecting their local interests at foreign points, engage in political activity within the foreign country, raise serious considerations which I think this committee should take into account. A glance at a chart which I have submitted (F. C. C. Exhibit No. IX (1)) will show the extensiveness of the interests of the ITT in foreign countries. Its large financial stake in business ventures in foreign countries is indicative of the potential conflict of its interest as an operator of United States communications with its interest in the protection of foreign holdings. *Hearings Before a Subcommittee of the Senate Committee on Interstate Commerce,* 79th Cong., 1st Sess., 173–74 (1945).

What was of concern in 1945 is no less so today.

Nor are ITT's political relations limited to foreign countries. It would be inappropriate for us to detail ITT's well-known domestic political activities at length. One example, drawn from the record, should be adequate. In the "CATV-Status Report" presented to Mr. Geneen by Mr. Vollbrecht on December 30, 1966 (J 126) ITT's CATV operations are discussed under two major headings. The first deals with political considerations, the next is headed, by contrast, "Operation of CATV Systems as a *Business* Enterprise." (emphasis added). [5414] The political section of this memorandum is revealing for what it shows of ITT's capacity for dealing in a business-like way with the cost of obtaining what is described as "a political plus." It's simply charged to "public relations." Here's the analysis:

> In Mr. Gerrity's absence I was able to obtain the following from Mr. Perkins of the public relations department:
>
> 1. We want to accommodate the Louisiana group on the Baton Rouge franchise if we can do so without losing money. While we want to come out as profitable [sic] as possible, our real objective here is to build a political plus—not drive a hard bargain—i.e. [,] we don't want the Louisiana group to go forward with someone else.
>
> 2. Hence, we are committed politically to going forward with the Louisiana group if they are the successful bidders for the Baton Rouge franchise.
>
> In handling this proposal, we should insist on the following disciplines [sic. divisions?] between FEC and public relations:
>
> 1. FEC is responsible for negotiating a deal that meets our agreed minimum requirements for a profitable operation for FEC.
>
> 2. If FEC is unable to negotiate such a deal, they must keep negotiations open for public relations department. Public relations is responsible for the cost of any deal that produces less than the minimum profit standard for FEC. (J 126, p. 2).

This is scarcely the analysis of the politically unconcerned.

Why are ITT's international relations relevant to ABC's public affairs independence? For essentially two reasons. A company whose [5415] daily activities require it to manipulate governments at the highest levels is likely to be left with little more respect for the role of a free and independent press in a democratic society than for the role of conscientious government officials fulfilling the broadcast public interest of their nation's citizenry. Secondly, the pressures and temptations to pervert the proper role of the press increase in quantity and complexity with a company's foreign entanglements. It goes without saying that any public official, or large corporation's officer, is necessarily closely concerned with the appearance of some news stories, the absence of others, and the slant of all affecting his personal interests. That's what public relations

firms, and press secretaries, are all about. It simply cannot be disputed that any one of America's three major networks' news and public affairs coverage is a matter of considerable significance throughout the world. To do the reporting job independently is difficult enough for the most independent and conscientious of newsmen. We simply cannot find that the public interest of the American citizenry is served by turning over a major network to an international enterprise whose fortunes are tied to its political relations with the foreign officials whose actions it will be called upon to interpret to the world.

Of course, the applicants provide us self-serving assertions that ABC will remain independent. Of course, they have not brought us any evidence of past abuse. But if this Commission is ever to [5416] consider the integrity of the news reporting services that feed an informed people in a free society, it must make judgments based on common sense and probabilities. If it relies upon parties to proposed mergers to bring evidence to the Commission of the threat to an independent news service it will be a long time waiting. Indeed, it is only by the sheerest coincidence that the applicants have provided us in this case with specific and dramatic evidence of their approach to news media. We find their behavior and attitude shocking and persuasive, but we believe the case against the merger in this respect can—and in a general sense must—be said to be fully sustained without it.

And yet, in the course of this very proceeding with which we now deal, several ITT officials exhibited a thorough disdain for the unfettered functioning of a free press in this country. Obviously the company has a great economic interest in the outcome of this proceeding and is interested in the way the press treats the news which develops with regard to the merger proposal. Like most large corporations, ITT has public relations officials whose legitimate function is to keep the press informed as events unfold. But during the hearing in this matter, three reporters covering these proceedings were called to testify and the picture which emerged of ITT's attitude toward the press goes far beyond that of legitimate public relations activity.

Most important were the recurrent and thoroughly [5417] reprehensible contacts with New York Times reporter Eileen Shanahan, detailed in Section II, *supra*.

The sole reliance of ABC and ITT in arguing that ABC news and public affairs will be uninfluenced by other ITT business interests is the autonomy which will be granted to ABC within the ITT organization, and the autonomy which ABC news is represented to have now within ABC itself. The same Policy Statement discussed in Section V, *supra,* is relied upon to guarantee these two levels of autonomy. But, as noted there, ITT has already experienced difficulty in keeping ABC insulated. The conduct of the public relations officials, if we can assume that it was unsanctioned by top management, indicates further the difficulties in controlling all the activities of such a far-flung business organization. Perhaps the Policy Statement and a determined commitment by ITT can control its public relations people and the more zealous ITT business officials, but the evidence in this proceeding raises serious doubts.

Furthermore, the "autonomy" of ABC news is, given the fallibilities of human nature, less than a solid pillar with which to support news and public affairs integrity. But for the brazen activities of ITT in this very proceeding it would never have occurred to us to suggest that the most probable threat to the integrity of ABC news would come from overt actions or written policy statements. Now that is clearly possible. But, even now, we believe the most substantial [5418] threat comes from a far more subtle, almost unconscious, process. ABC newsmen and their supervisors will know that ITT is the boss, and that ITT has sensitive business relations in various foreign countries and at the highest levels of our government, and that reporting on any number of industries and economic developments will touch the interests of ITT. The mere awareness of these interests will make it impossible for those news officials, no matter how conscientious, to report news and develop documentaries objectively, in the way that they would do if ABC remained unaffiliated with ITT. Some of the newsmen will advance within the news organization, or be fired, or become officers of ABC—perhaps even of ITT—or not, and no newsman will be

able to erase from his mind that his chances of doing so may be affected by his treatment of issues on which ITT is sensitive.

Thus, the threat is not so much that documentaries or news stories adversely affecting the interests of ITT will be filmed and then killed, or slanted—although that is also a problem. It is that the questionable story idea, or news coverage, will never even be proposed—whether for reasons of fear, insecurity, cynicism, realism, or unconscious avoidance. There is also the possibility that "news" and "public affairs" (or even entertainment) material would be ordered, or proposed, that serve as little more than public relations pieces for ITT or its economic and political interests. But, once again, while this is a real threat, the more probable abuse is that when a [5419] legitimate and favorable item of questionable newsworthiness comes along the scales will be tipped in favor of its exposure. Nor will it serve American journalism if the newsmen overcompensate and give unwarranted stress to developments embarrassing to ITT. For whatever the response, the American people will be exposed to programming from ABC that will forever be—or should be—subject to the suspicion that it has been developed with the interests of ITT in mind, however those interests may be perceived or felt. The risks which this suggests are of a kind that should be taken only with the greatest caution and only with a showing of extraordinarily compelling countervailing benefits.

[5420] VII. ABC Has No Needs for Additional Funds Which Cannot Be Financed Without the Necessity of Merger

The primary justification for the merger which the parties have consistently advanced is the financial support which ITT will lend to ABC. ITT's aims are not eleemosynary, but, it is contended, in order to obtain a position of reasonable profitability in the long run ABC must make great expenditures for colorization and modernization of its facilities over the next four years. We had general estimates of the magnitude of these expenditures at the September hearing, but, as a result of this supplemental hearing, we have obtained more precise estimates

and a detailed examination of the expenditures involved. The most significant and controversial of these proposed expenditures is the $113,470,000 listed for new studio and technical complexes to be erected in New York and Hollywood. An examination of the evolution of the ABC estimates will help place them in perspective.

A merger with ITT was first proposed to ABC by a third party in December of 1964. It seems likely that this feeler was instigated by ITT, because ITT took the initiative in making contact with ABC in January of 1965. In February ITT made a specific offer to ABC but ABC President Goldenson rejected it. A lull in the negotiations prevailed until November 16, 1965 when Geneen of ITT again initiated conversations. Serious negotiations ensued and agreement was reached. On December 7, 1965 the Boards of Directors of both companies approved the merger [5421] and a preliminary contract was signed between the parties. And on February 14, 1966 an agreement of merger was signed with a provision that either party could walk away from the transaction within sixty days if certain assumptions, primarily financial, proved unfounded.

The first fact to be noted is that at no time during any of these negotiations was ITT given any dollar estimates by ABC for colorization and construction costs. The opinion of ITT's top management, expressed in a document submitted to the ITT Board for its consideration in connection with the merger, was that "ABC's five year cash throwoff through 1970 will approach $100 million, almost all of which will be available for reinvestment outside the television business." (J 238, p. 3). ABC now seems to feel that if allowed to merge with ITT and make all contemplated expenditures it will become more competitive with the other two networks. But ITT made no such assumption in reaching the $100 million figure, for the same document emphasizes that "we have not *programmed any improvement in coverage in our projections of revenues and income through 1970*." (J 238).

Even more revealing is the fact that the minutes of the ABC meeting of December 7, at which the merger was approved, contain no mention whatsoever of the financial aid ITT will

bring in ABC expansion plans. The entire discussion of benefits expected from the merger is as follows:

> [5422] Mr. Siegel [of ABC] went on to state that among the principal advantages which might be foreseen from a merger with ITT were the fact that ITT's accounting department is fully automated and that the benefits of such automation would be available to ABC, whereas the installation of automation by ABC, which he deemed essential, would cost many millions of dollars; that ITT's experience in engineering would be of great benefit to ABC; that ITT is firmly established abroad and he feels that this would enhance ABC's growth in foreign television; that if ABC were part of a larger complex, the wide fluctuations in earnings typical in the broadcasting business should be reduced and that he believed that ABC's image in the eyes of sponsors would be enhanced if it were part of a larger and stronger complex. (J 5, p. 5).

Thus, despite testimony at the supplemental hearing that ABC was generally aware in 1965 of the great costs involved in colorization and modernization, and despite testimony that ITT was informed—again in a general way—of the great expense anticipated, the contemporaneous documents indicate that neither company viewed ITT as a source of funds for ABC. ITT expected the flow of money to be in the other direction, and ABC did not mention financial needs at all.

In the middle of April 1966 ABC submitted several very large exhibits to the Commission in support of the merger. One exhibit deals, in part, with the great expenses facing ABC. ABC said,

> Among the major expenditures which ABC immediately faces, if it is merely to retain the competitive position it has achieved are the following: (a) color conversion costs. . . . (b) increased entertainment program costs. . . . (c) feature film production costs. . . . (d) increased news, special events and [5423] public affairs costs. . . . (e) increasing sports costs. . . . (f) the cost of program innovations. . . . The above six examples are only illustrative of the many greatly increased expenditures that are required

> merely to keep pace with television *as it has developed to date.*

Thus as late as March of 1966, in listing illustrative examples of increased expenditures, there is no mention whatsoever of the most significant expenditures which are now proposed—those for new technical and studio complexes.

In July of 1966 the Commission wrote Mr. Goldenson, requesting a specification "in further detail [of] the manner in which the financial resources of ITT will enable ABC to improve its program services and thereby better to serve the public interest." In reply we received the first mention of the expenditures which now constitute more than one-third of ABC's stated cash needs over the next four years. Mr. Goldenson wrote, "Illustrative of the capital requirements for *plant and equipment* [emphasis in original] *already known and planned by ABC* [emphasis added] are $34.0 million (in addition to $10 million already spent through 1965) for conversion to color; $17 million (in addition to $6.5 million already spent) to purchase and furnish ABC's new office headquarters building in New York City; and approximately $90.0 million for constructing and equipping *new* [emphasis in original] studio complexes to be built in New York and Los Angeles, as a part of our long range plan."

The $90 million figure is the first mention we received of ABC plans for new studio complexes. And it was from Mr. Goldenson's [5424] July letter to the Commission that ITT first got any "hard" figures on proposed expenditures by ABC. (Geneen 2008).

The facts surrounding calculation of that $90 million figure are essentially uncontested. Mr. Goldenson relied on Mr. Siegel, ABC Executive Vice President, for the figure. (Goldenson 1536). Mr. Siegel asked a Mr. Marks, then head of ABC's construction department, to arrive at an estimate, and it was Mr. Marks who put together the figure of $90 million. (Siegel 2389). Siegel's understanding is that Marks arrived at that number by adding together three other estimates: $17 million for Hollywood construction, $40 million for New York construction, and $33 million "for the cost of equipping the new

studios and renovating the existing properties in New York." (Siegel 2540). Let us examine the history of these "plans."

In December of 1964, ABC appropriated $300,000 "for architectural and engineering fees for preparation of designs and plans for proposed expansion and updating" of its Television Center in Hollywood, and $300,000 "for architectural and engineering fees for preparation of designs and plans for . . . alternations and improvements" of its New York properties. (AR 8). The Austin Company was employed to make these plans. The Hollywood plan was submitted in May of 1965 and was estimated to cost slightly over $12 million. (AR 12; AR 39). *This plan contained no new technical facilities for Hollywood.* Although [5425] no documents are available to verify this, Siegel testified that discussions made it clear that improved technical facilities would be necessary, and it was on this basis that the estimate was raised to $17 million by July of 1966. (Siegel 2391–94). The Austin Company's plan for New York was presented on June 20, 1966. (AR 39). It was discussed at a meeting on July 8, 1966, and was *rejected* by both Goldenson and Siegel because it took too short-range a view. (AR 19; Goldenson 1532; Siegel 2394–95). But in January of 1966, based on what was then available of this New York Austin plan, the Diesel Construction Company submitted an "approximate" estimate of $39,050,000 for the New York construction. (AR 15). In August, 1966, after ITT had appointed Mr. Benham to aid ABC in their planning, an internal ITT memorandum revealed that "there is some internal disagreement at ABC regarding the present *so-called* master plan of expansion. This might be an area where *our firm guidance* can be of value to the future of ABC." (J 256) (emphasis added). But it was the January Diesel estimate, based on a rejected Austin plan and formulated about five months before that Austin plan was in final form, which formed the basis for the $40 million estimate for New York construction.

The record is virtually silent as to the basis for the $33 million figure for equipping and renovating New York properties. Mr. Siegel testified that this was "mostly construction work on

existing properties." [5426] (Siegel 2540). But there is no further testimony nor documentary support for this estimate, despite the fact that all relevant ABC documents were requested. The Justice Department challenged this figure (J Findings, p. 127), and ABC and ITT have made no attempt to justify it.

The point is not that $90 million is an exaggeration of the eventual cost of the facilities presently contemplated in New York and Hollywood. Indeed, since the New York Austin plan was rejected for taking too short range a view, it might be argued, as ABC and ITT have, that $90 million was an underestimate of the eventual costs involved. But note that, as late as July 1966 and in specific response to a Commission request, ABC had no firm idea of its need for facilities or the period of time in which it would expect to build and pay for them, or the deadline for completion or even beginning of construction. Since the Austin plan had been rejected, no plan for New York construction was then in being. The point, therefore, is that the representation by Mr. Goldenson that the $90 million represented capital requirements "already known and planned by ABC" was simply unfounded.

The present plans which ABC now puts before us were developed in coordination with ITT and were still not in final form in January of this year, 1967. The estimates which we now have were completed on February 8, 1967, *after* the Justice Department had petitioned the Commission to reconsider its decision.

[5427] One document (AR 3) purports to show the estimated cash flow for ABC from 1966 through 1970. It estimates that in those five years ABC will have cash sources of $208,850,000 and cash needs of $372,722,000. After considering borrowing already contemplated and cash currently on hand, the document concludes that ABC will require $75,111,000 over the five years, with a peak shortage in 1969 of $85,801,000.

Several aspects of this cash flow estimate and related documents require particular attention and, we think, effectively dispose of the argument that the merger will bring some particular financial benefit to ABC that it cannot manage easily

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on its own *and* which is necessary to make ABC an effective competitor. In particular:

—The financial estimates were not constructed with the usual motivations of prudent businessmen. The total cost was computed with an eye toward the necessity of impressing this Commission with the magnitude of necessary expenditures, rather than a realistic approach to ABC's actual needs.

—The cash flow estimates err markedly on the side of exaggerating ABC's projected cash deficit and hence represent an unrealistically high prediction of ABC's cash needs *even if* its need for facilities and the target date of 1970 are accepted.

—ABC's difficulties in borrowing have been grossly exaggerated. Even if all its assumptions of need for facilities, desirable completion date, and cash flow estimates based on these are accepted, there is no substantial doubt that ABC could obtain any necessary financing.

[5428] These conclusions flow quite naturally when one examines the various components of ABC's cash flow exhibit.

—An ABC official admitted that an $890,000 item should have been omitted from the total for plant development in Hollywood. (Barnathan 2125). Since that figure would carry over into the cash flow projections, it would appear that cash uses are exaggerated by that amount.

—In 1966 ABC realized $2,500,000 in capital gains from the sale of some of its theaters. In 1967 it contemplates realizing $2,000,000 from already completed transactions. But the estimates for 1968, 1969, and 1970 from this source are only $150,000 each. The explanation offered is that "Since such transactions are not predictable, the amount shown represents the cash expected from previously completed transactions." But Mr. Siegel admitted that ABC contemplated further "capital dispositions." (Siegel 2421). It seems more reasonable to use the 1966 figure as a prediction for the other years. On this basis ABC would have an additional $7,550,000 to add to its cash resources over the five year period.

—ABC included no amount in cash sources for the price of common stock sold under options for the years 1967–70, despite the fact that it realized $900,000 from this source in 1966. The explanation offered is that "if the merger is consummated, ABC will not receive the proceeds, and if the merger is not consummated, it is likely that the amount to be received on options exercised would not be significant." The first alternative is obviously irrelevant, and no reason is given for the second conclusion. In fact there are more options exercisable at the end of 1967 than there were in 1966 (57,189 shares as opposed to 52,718), and there is a [5429] large number already exercisable in 1968 (50,696). (J 270, p. 19.) It would seem more likely that an amount at least approximating that realized in 1966 would be available in each year from 1967 to 1970. If that were so, ABC would have an additional $3,600,000 available over the four year period.

—As one use of cash, ABC plans to spend an as yet uncommitted $10,500,000 from 1968 to 1970 to purchase new theaters. While the company is undergoing a vast expansion of capital spending in other areas, it would seem reasonable to expect it to seriously curtail this program of theater purchases. While this would mean some loss of revenue, it seems likely that ABC could, in this way, cut its net capital deficit almost $10,000,000 over those three years.

It thus appears that, on these four items alone ABC could reduce its alleged cash deficit for the period by more than $20,000,000.

If Congress passes certain tax legislation it is considering Mr. Siegel testified that ABC would save approximately $12,000,000 in taxes, thus reducing its cash needs by that amount. Part of this would be offset if the suggested six percent tax surcharge were also passed, but this would reduce these savings by less than $1,000,000. (In 1966 ABC paid Federal income tax of $14,850,000.) If ABC does go ahead with the building of its new New York and Hollywood studio complexes, Siegel testified that ABC would have a substantial amount of equipment and properties to sell, although he could not predict "what we will get for

it." (Siegel 2421). It would thus seem that there is probable additional income which would reduce ABC's projected cash deficit even further.

[5430] Several specific items of expenditure included in the AR 3 calculations are of either questionable necessity or of dubious validity.

The figures include estimates to colorize two studios in New York which the ABC official in charge repeatedly testified there is no present intention or programming need to colorize. (Barnathan 2097, 2230, 2245–47, 2254). If that colorization is not necessary, ABC will save $4,818,000.

ABC estimated $5,460,000 for replacement of 42 video tape recorders. ABC does not yet know if RCA will be able to supply modification kits for the existing recorders at a price of $1,008,000. If RCA can supply these kits, that would mean an additional saving of $4,452,000 for ABC.

If all these uncertainties were to be resolved in favor of ABC, *it thus appears that its cash shortages, accepting all its other estimates, would be reduced by more than $40,000,000, even if ABC undertook its entire expansion program in the contemplated time.*

In addition it is perfectly clear that the ABC estimates were not constructed from the vantage point of a company in a tight cash position. The Justice Department has compared ABC's estimates of November 1966 (AR 25) with those of February 1967 for a technical center in New York and Hollywood and for colorization in New York. In those few months ABC estimates for these items increased from $21,095,000 to $28,190,000, or more than 30 percent. The explanation offered at the [5431] supplemental hearing for the various components of these increases were wide-ranging. For one item, "the construction department did not put it in their figures." Another was "an oversight." (Barnathan 2171).

Other items have increased or changed radically only since January 1967. For instance, in January transmission and switching equipment for coverage of the Olympics and the conventions was estimated at $700,000. (J 257). In February this had become $760,000. (AR 3, att. B). That Hollywood Technical Center whose projected cost had elevated from $5,345,000 in

November 1966 to $6,775,000 in February had been estimated at $5,841,000 in January.

In short, the estimated costs have escalated so substantially between January and February of 1967 that one is led to the conclusion that the Department of Justice petition for reconsideration on January 18, 1967 may have played a disproportionate role in ABC's accounting. And the final figures which ABC has submitted must be taken to represent absolute maximum projections rather than taken at face value, as the majority seems prepared to do. The actual expenditures which ABC will face if it goes ahead with all anticipated projects may fairly be estimated at considerably less than the ABC figures indicate.

An underlying assumption of AR 3 requires some additional attention. In order to arrive at cash sources ABC estimated a growth in net earnings from operations over the five year period of 15 percent [5432] a year. Mr. Siegel testified that he was not at all confident that the company could sustain this rate of growth. (Siegel 2419). Indeed earnings of the company did not proceed at any such rate of growth from 1961 to 1964 when they went from $9.9 million to $11.0 million. But in 1965 they increased by 43 percent, to $15.7 million, and last year increased another 14 percent to $17.9 million. And ITT's projection at the time of the merger was "an earnings growth of some 16 percent a year expected for ABC" over the period 1966–1970. (J 238, p. 2). This was evidently based on a Roth Gerard Report prepared for ITT (J 238) which projected a 1970 net income for ABC of $36 million. This compares with the $31 million ABC has estimated in its cash flow projections based on its 15 percent estimate.

But, even if ABC fell somewhat short of the predicted growth rate for ABC, given all the other contingencies whose probable resolution will work in ABC's favor, and considering that their projected expenditures must be taken to err greatly on the high side, it is virtually certain that its cash position will be considerably more favorable through 1970 than appears from AR 3.

Finally, it must be noted that there is no evidence whatsoever that ABC had set a 1970 target date for completion of its

capital improvements until it became necessary to justify the merger to the Commission in September 1966. As late as July of 1966, Mr. Goldenson, [5433] in his letter to the Commission, spoke generally of "long range plans" with no specific date for completion mentioned.

There is no evidence, except affirmations by ABC officials, of a programming need severe enough to justify the rapid construction schedule contemplated. The only conceivable need would be the race to color programs. But the evidence is quite clear that ABC will have its entire schedule in color by autumn of this year, 1967. (Goldenson 1521–22). While some of their facilities could stand improvement, no reason is shown why a slower rate of construction would not be adequate.

The Broadcast Bureau states the obvious: if ABC defers its projected studio complexes for one, two, or more years, its projected cash deficits will be considerably reduced. (BB Findings 283). ABC and ITT answer that "the sooner the projects [are] completed . . . the sooner [ABC] will have the studio space and operating flexibility that it must have in order to be fully competitive with NBC and CBS." But the only evidence to support this statement are further statements—all self-serving—by ABC officials.

Both the Department of Justice and ABC produced expert witnesses to testify on ABC's ability to borrow the necessary funds to carry through the projects in AR 3. John Burton, Professor of Finance at Columbia University, testified for the Department, and Mr. Wilbur Ross, of the investment firm of Faulkner, Dawkins & Sullivan, for ABC. Professor [5434] Burton believed that ABC could raise the money required for those projects in the money market through debt or equity financing. (Burton 3102–03). He offered five specific plans for accomplishing this in various ways. (J 350). Mr. Ross, while criticizing each of Burton's five plans, had prepared a plan himself by which he felt ABC could finance its planned expenditures without a merger, assuming that all the variables in AR 3 were correct and accepted by the relevant financial institutions. (Ross 3605). When asked if lending institutions would accept his plan today and loan money to ABC on it, he replied, "yes . . . if I can convince the people that the 15

percent growth will occur, yes, it is bankable." (Ross 3608). Even if there is question as to the reliability of the 15 percent projection for growth in earnings, there are much more substantial contingencies which will more likely be resolved in ABC's favor. Certainly lending institutions would take these into account also. Therefore, it can only be concluded from the testimony of ABC's own witness that ABC is fully capable of financing all projected expenditures without the proposed merger. It is also noteworthy that ITT estimated at the end of 1964 that ABC would have borrowing power of $267 million in 1969. While this may have been optimistic, it is more than $170 million more than ABC's current long term liabilities which, in turn, are more than double the maximum cash deficit which ABC estimated in AR 3.

[5435] VIII. The Merger's Effect on the Advertising Market

The Department of Justice urges that the merger will have a detrimental effect on the advertising market because it will present the danger of foreclosing ITT's own advertising from other companies, and it will provide the opportunity for reciprocal dealing by ITT which might foreclose the advertising of some of its major suppliers from other broadcasters.

The first argument is rather insubstantial. ITT's 1966 television advertising amounted to $1.7 million, and it estimates its 1967 expenditures for this purpose at $2,999,510. (R 3851). This compares with total United States television advertising of more than $2.5 billion. Even if ITT increases its expenditures in this area enormously, it will be in no position, by withholding its own advertising, to foreclose a significant part of the television advertising market from other broadcasters if it acquires ABC.

For its reciprocity argument the Department points to such major suppliers of ITT which also advertise on television as Ford Motor Co., General Motors, Chrysler, General Electric, DuPont, Gulf Oil, American Airlines and United Airlines. But all of these companies combined had only about 4 percent of the total television advertising in 1965. The Department points to a case where actual [5436] intent and apparent ability to

foreclose five percent of a market in a highly concentrated industry was sufficient to render a merger illegal. United States v. General Dynamics Corp., 258 F. Supp. 36, 64–65 (1966). But in this case it is unlikely that ITT could command all or most of the advertising of even one of the companies mentioned. First of all, ITT's purchases are only tiny fractions of the total sales of each of those companies, though the record is silent on the exact percentages. Second, the value of the television advertising of each of the companies exceeds that of ITT's purchases from it. Furthermore, there are many other very sizable companies in the broadcasting business which could be expected to have comparable shares of the total purchases from those companies. And any future entrant into networking would likewise probably be a sizable corporation which could offset much of the leverage ITT could exert.

In sum, while we do not completely reject the Department's concern, we do not believe the possibility that an ITT-owned ABC would inject anticompetitive pressure of a significant degree on the television advertising market can have a substantial effect on our decision.

[5437] IX. CONCLUSION: THE LACK OF JUSTIFICATION FOR THE MERGER IS CONFIRMED BY THE MAJORITY'S RELIANCE ON DISCREDITED EVIDENCE AND BALD ASSERTION

The opinion of the majority is truly an extraordinary document.

Citations to the hearing record in this case, and the evidence adduced, are few and difficult to find. When they do appear they are almost exclusively the product of selective culling from the testimony of officials and employees of the merging companies. The majority provides no citation or discussion whatsoever of any of the testimony of the expert witnesses offered by the Department of Justice, save two. For example, not even a modest attempt is made to deal with the testimony of Professor Albert Hill of the Massachusetts Institute of Technology, Dr. Joseph Vincent Charyk, President and Director of Comsat, Mr. Asher H. Ende of the Common Carrier Bureau of this very Commission, Bogdan R. Stack of the Stanford Research Institute, Paul Visher of Hughes Aircraft, or Professor Harvey J. Levin of

Hofstra University. Only the smallest portion of the testimony of the one expert witness in broadcast economics, Dr. Hyman H. Goldin, is even mentioned. The bulk of his testimony, bearing on the detriments to be expected from the merger and illusory nature of the stated justification, is given no mention. And the Department's final expert, Professor John Burton of Columbia University, is dismissed without the slightest attention to the product of his extensive labors. The Commission states:

> [5438] We are confident that the [Justice] Department, with its extensive and highly skilled investigatory resources and its experienced and expert ability at economic analysis has put into the record every fact of possible relevance to our consideration and decision of this matter. (par. 82).

This gratuitous statement must have been intended jocularly, for the Commission has virtually ignored the relevant evidence which the Justice Department has presented.

The "justification" for the merger now lies, as it did last December, in unsupported conclusions of the majority often at odds with the record in this case. Where record support for the conclusions does exist it can be found only in the testimony of the witnesses who have a direct economic interest in the outcome of this case—officers and officials of ABC and ITT. At times this testimony is flatly contradicted by far more credible evidence. At other times, although uncontradicted, it stands in stark contrast to human experience and common sense. On only the rarest occasions are the applicants' self-serving statements corroborated by substantial and probative evidence. Yet almost never are they rejected by the majority.

The extensive analysis which we have attempted of the public interest elements of this merger stands, we feel, as ample rebuttal to the conclusory opinion of the majority. We believe that any fair reading of the record by an impartial tribunal would sustain the reasoning and the conclusions we have reached. But some of what the majority says is so palpably unsupported or at odds with the array [5439] of testimony and documents before us, and at times so internally inconsistent, that we cannot let it stand without explicit challenge.

Moreover, our review of the majority's opinion in this section serves as a useful way to summarize and conclude our presentation.

Here are a few samples of the majority's "analysis" and supporting "evidence," which we have drawn from its own opinion.

(1) The majority says, "no determined negotiations for acquisition of television properties were pursued by ITT until it began negotiating with ABC." (par. 14). The facts are that there is direct testimony by a disinterested witness that Harold Geneen, President and Chairman of the Board of ITT, offered $35 million for Hartford station WTIC in 1963 in a meeting with WTIC officials in Hartford. (Graham 2599). It is true that Geneen denied this, but the contemporaneous documents indicate that he did make such an offer. See Section II, *supra.*

(2) The majority contends that,

> [I]t appears that the January 5, 1966 decision of ITT's CATV Committee to continue the [ITT CATV] freeze was not premised on the possibility of a merger with ABC. (par. 25).

In a footnote an attempt is made to explain away the very substantial evidence that the merger played a definite part in that decision. A CATV status report written for Mr. Geneen by his assistant, Mr. Vollbrecht, showed awareness of the necessity to ask ABC to "audit . . . our decision to go or no go in [CATV]." (J 126, p. 4). The majority [5440] accepts Mr. Vollbrecht's testimony that he had no intention of consulting with ABC until after the merger had been consummated. But this abiding faith in Mr. Vollbrecht's assertion is only possible when one fails to look at the entire document from which the majority quotes selectively. Earlier in the same document, Vollbrecht had said, "We have not yet been able to satisfy ourselves on a go or no go decision. We expect to do this within the next two weeks." (J 126, p. 2). On December 26, the date of the memorandum, it was clear that ABC and ITT would not even conclude their merger agreement for almost four weeks. Therefore, if Vollbrecht's testimony is to be believed, he could not consult with ABC within two weeks, and the language which the majority quotes makes no sense.

(3) The majority concludes that, "ITT was never seriously interested in pay-TV." (par. 8). To arrive at this curious conclusion credit is given to the testimony of two ITT officials—and none to that of a third party who contradicts them. And the majority also conveniently ignores the documentary evidence indicating that ITT felt that, "The opportunities for ITT . . . [include] Pay TV itself." (J 119, p. 23).

(4) The majority parades a list of "technological tasks which ITT can undertake to help solve the problems of UHF and of ABC coverage." (par. 36). But it fails to point out that this list was compiled by the ITT technical director on September 16, 1966 (J 262), three [5441] days before the first hearing in this matter and was thus—we think one can reasonably assume—an attempt to come up with some justification of the merger. The Commission has made no attempt to independently evaluate the feasibility or the likelihood of success of any of these projects. The probative value of that same memorandum is put in more realistic perspective, we believe, when it is realized, as the majority candidly says, that ITT also argues it can aid satellite-to-home broadcasting. No doubt ITT *could* aid satellite-to-home broadcasting, just as it *could* aid UHF if it wished, but it never will if it acquires ABC, because, as Mr. Geneen admitted (Geneen 1857–58), the consequent bypassing of ABC's owned and operated stations would mean economic disaster for ITT.

(5) The majority states,

> The record makes clear that all ITT subsidiaries are expected to purchase equipment, supplies, technology and services where they can do so most economically and efficiently from the viewpoint of their own operations, without regard to other ITT affiliates. (par. 47).

As incredible as this may seem, it is indeed what ABC and ITT officials testified. But it is also directly and positively contradicted by the record. FEC President Chasen testified that he tries to rent Avis cars when on a business trip. "If an Avis car is not available, we will then go to some budget-type of rental." (Chasen 910). And the record makes clear that Avis' percentage of ITT's rentals jumped [5442] from a pre-acquisition 29 percent to a post-acquisition 82 percent. (AR 87). Either

budget rentals are more economical and efficient or they are not. If they are, ITT officials should try them first if ITT's "expectation," and the majority's finding, are in fact company policy. If budget cars are not cheaper then they should not be the second choice after Avis, when, as we officially notice, there is another major non-budget rent-a-car company. In either case, the majority's statement is at direct odds with all the record evidence—except, once again, for the obviously incorrect and self-serving testimony of interested officials.

(6) The majority contends that,

> The advances in broadcasting and communications technology in this country have been made by firms which were integrated organizations of communications operating firms and research and manufacturing enterprises in communications technology. (par. 46).

This is an interesting reading of history, but it is unsubstantiated, at odds with the facts, and fails to consider the expert testimony of Professor Hill who indicated that such integrated firms have little incentive to make major advances. In fact, the two most significant recent developments in broadcasting, satellites and cable television, were developed and pursued by non-broadcasting entities. And the earlier history of broadcasting supplies at least one example—FM broadcasting—where it is charged that the major integrated broadcaster-[5443] manufacturer, RCA, suppressed rather than advanced the art. See, *e.g.*, Head, Broadcasting in America 148 (1956).

(7) The Commission says,

> The record of the supplementary proceeding, establishes beyond any real dispute that ABC faces rising and substantial expenditures for both capital and operating requirements. Some of these are supported by detailed and voluminous itemized schedules. While it is always possible to raise questions about particular items in such lengthy schedules, it would appear that these financial forecasts and their supporting schedules represent responsible business judgments. (par. 67).

In fact the record is rather clear that these financial forecasts represent business judgments only in the sense that convincing

this Commission of the merger's justification is the pursuit of business. The schedules, the estimates, and the 1970 completion date for capital expansion, were almost all prepared for presentation to this Commission rather than for any independent business reason. There are only two firm estimates for ABC capital expenditures which were prepared before the merger agreement. These are $12 million for Hollywood construction (AR 12; AR 39), and the since-rejected plan for New York construction, estimated to cost $39,050,000. (AR 15). Neither of these had been scheduled for any completion or even starting date before the merger negotiations. Using the assumptions of AR 3, ABC will realize almost three times the total of these two figures over the period 1966–1970 from net earnings and depreciation of broadcast properties *after* deduction of [5444] dividends. Furthermore it is not only possible to "raise questions about particular items in . . . lengthy schedules" but the total amount represented by the questionable items in AR 3, *without questioning the need or estimate for any asserted building or facility,* is almost half of the projected cash deficit. See Section VII, *supra.*

(8) The Commission relies now, as it did in December, on "the past performance of both applicants as long time licensees of the Commission" (par. 78), to somehow guarantee exemplary future conduct. But, as we have seen, ITT has, on at least two occasions in the past, committed gross and intentional violations of Commission rules. See Sections II and VI, *supra.* The Commission dismisses both of these, but both demonstrate how misplaced is its reliance. Such uncritical and unsupported statements from the majority's opinion could be multiplied further. But we believe these eight examples are sufficient to make the point.

Scarcely less disturbing, however, is the analysis by fiat and misreading of the background of this case in which the majority engages.

The majority outlines the procedural steps in this case and an effort is made to indicate a thoroughness in this proceeding. (pars. 1–5). A brief background is necessary.

After reviewing the extensive filings in the applications before us, the majority ordered a so-called "oral hearing" sched-

uled for two hours and fifty minutes on September 19, 1966. Because of questioning [5445] by the minority Commissioners, the "oral hearing" was extended to two days. It consisted of self-serving statements by the applicants, with no adversary parties involved. The Commission's Broadcast and Common Carrier Bureaus were limited to a presentation of questions involved and were not permitted to argue the merits or cross-examine or test the statements of the applicants. (In its December opinion the majority took pride in the work done by its senior staff, (pars. 8, 9). In this latest opinion, where the senior staff participating was allowed to reach a conclusion and did conclude that this merger would not serve the public interest, a similar tribute is missing.) It is to be noted that the Commission made no investigation, as has the Justice Department, into the companies' records with respect to the proposed merger, but relied solely upon the applications and filings of ABC and ITT.

In a letter dated and filed with the Commission December 20, 1966, the Justice Department stated that its independent investigation of the proposed merger, and study thereof, indicated serious anticompetitive consequences and advised the Commission to give full consideration thereto before acting on the merger request. The next day, December 21, 1966, the Commission majority voted to grant consent to the merger without further consideration.

Commission consent to the merger rested upon a finding that "The principal reason for the proposed merger is the need of ABC for [5446] more funds than are available to it without the assistance of ITT." (par. 23). In the April hearing, ordered on the petition by the Justice Department, some five hundred exhibits and four thousand pages of transcript produced a record from which both the Commission's Broadcast Bureau (a full party to the further hearing), and the Justice Department, have concluded that, contrary to the Commission majority's previous holding, ABC could finance its alleged needs by means other than merging with ITT. Thus, the scanty record on which the Commission majority rested its first decision did not, as the Commission majority indicated, contain all the undisputed evidential facts adequate for a sound and reasoned decision.

The Commission majority states that "because of the significance and unique character of this case, we believe that it should *not* be decided on the basis of technical rules of procedure or burden of proof . . . ." (par. 6). We believe that the case must be decided pursuant to the statutory provision, which we cannot waive, and that the burden of proof on the specified issues is, and must be, on the applicants.

The majority first seems to acknowledge that we need not find a violation of the antitrust laws in order to conclude that this merger would have detrimental impact on competition. But no sooner is this conceded than an extensive comparison of this case with conventional antitrust cases is undertaken—presumably to show that there is no violation. This is then taken as conclusive proof that there are no competitive detriments.

[5447] Antitrust cases are instructive because they provide examples of economic and legal analysis. But the Clayton Act's principal antimerger provision requires a finding of a substantial lessening of competition. 15 U.S.C. § 18 (1964). And the Supreme Court has indicated that a violation can only be supported if there is a "reasonable probability" of the substantial lessening, not a mere possibility. Brown Shoe v. United States, 370 U.S. 294, 319–23 (1962). We do not agree with the majority's antitrust analysis and conclusion that there is no reasonable probability of a substantial lessening of competition. And we would simply note that we cannot acquiesce in the implication that these same standards must be met before a dampening effect on competition will be relevant as one factor in the FCC's analysis of the much broader public interest considerations in a merger of an international electronics-common-carrier conglomerate and a major American broadcasting network. The mere possibility of lessening competition must be relevant in our determinations, for that would be a detriment to the public interest, which, however small, requires some offsetting benefit if the merger is to be sustained.

The majority refers to an article by Harvard Law Professor Donald F. Turner analyzing conglomerate mergers. Turner, Conglomerate Mergers and Section 7 of the Clayton Act, 78 Harv. L. Rev. 1313 (1965). If this reference is anything more than a cute and ineffective effort to suggest embarrassing in-

consistency between the views of Professor Turner and Assistant Attorney General (Antitrust) Turner, it is not [5448] readily apparent. In any event it won't hold water. First, it should be noted that Mr. Turner, as the present Chief of the Antitrust Division, has participated in the conclusion of the United States Department of Justice and the Attorney General that this merger does involve anticompetitive consequences, and is otherwise detrimental to the public interest, whether under the analysis he employed in his article or some other. Second, neither he, the Department, nor we, are, or should be, influenced by that law review article any more, or anly less, than by the research of any other thoughtful academic. If, however, one wishes to play the majority's game we think a perfectly logical extension of Professor Turner's reasoning demonstrates that Assistant Attorney General (Antitrust) Turner's present conclusion is correct.

Would ITT, as an owner of a group of stations, have been a likely entrant into the networking business? The network market is a very tight oligopoly—virtually without rival in this country. ITT, although not currently at the edge of the market, had pre-merger plans which very likely would have put it at market's edge in only a few years. The majority's citation of over "one hundred so-called 'group owners' " (par. 16) widely misses the mark, for very few of these have five VHF stations in major markets *and* the resources of ITT. ITT's serious interest in such major groups has been clear, and the majority concedes that "ITT was interested in making 'a sizeable entry' into television or none at all." (par. 14). If ITT's acquisition of a substantial group [5449] within five years were certain, so that it would then be comparable to Westinghouse, Metromedia, and RKO, this would surely satisfy the substance of Mr. Turner's requirement that the company in question be at the edge of an oligopolistic market. For this reason the majority's insistence that "whether or not ITT might have entered the broadcasting field as the owner and operator of another group of television stations . . . is not pertinent on the record" (par. 18), is really quite bizarre. It is highly pertinent, indeed central, to an understanding of the competitive impact

of this merger. Finally, though the barriers to network entry are at present quite high, it is likely they will be reduced markedly in the next five to ten years. This, too, should comply in substance with Mr. Turner's requirements. We do not need to, and do not, firmly conclude that this merger constitutes a violation of the Clayton Act. But the situation with which we are presented is close enough to that enunciated by Professor Turner that, if one accepts the analysis in his article, the anticompetitive effects of the merger must be taken into account by the FCC. ITT's lack of intention to enter networking by way of station ownership, of which it and the majority makes so much (par. 15), is what is "not pertinent on the record."

The majority's conclusion that "The merger will not change the scale or kind of competition in the relevant market" (par. 17), is really rather humorous in view of its reliance on stimulation of competition as the justification for the merger.

[5450] We have already discussed the substantial evidence that ITT's decision not to pursue its CATV activities was attributable to the merger decision. But the majority also insists, in an imaginative contribution of "expertise" during its discussion of the possibility of a large interconnecting network of CATV, that "there is . . . no evidence in this record that such a network would be technically or economically feasible." (par. 26). The fact is that ITT was seriously considering such a network. If it is not technically or economically feasible, surely the burden was on ITT to demonstrate this fact, or at least raise the possibility. The majority's statement is the first such suggestion of which we are aware in this case. The majority further suggests (par. 26), that there are numerous other companies in the CATV business in a position comparable to that of ITT—as if saying it would make it so. It does not. ITT's CATV plans were quite grandiose. It has very few peers in the technology of cable transmission. The parties have introduced no evidence that any other firm has given comparable active consideration to nationwide interconnection of cable systems.

The majority's discussion of the merger's effect on broadcast and related technology is replete with recitations of undiscriminating extra-record facts. For example, the listing of a

large number of companies involved in the manufacture of broadcast equipment (par. 31), completely misses the point. Only one or two approach ITT's experience [5451] in cable transmission. And only a very few have ITT's capabilities in satellite technology. It is in these and related areas that future technological breakthroughs will most likely come, so the long list, while interesting, is really irrelevant to the central argument.

The majority concludes that "most of the important work and significant technological advances [in broadcasting] have been the product of large companies with broadcasting interests." (par. 33). But this is contradicted by the very list "of manufacturers of equipment in or related to the broadcast market" which the majority had previously produced (par. 31), and which includes a large number of companies not integrated with broadcasters. To this list could be added a number of others, including Blonder-Tongue, Gates Radio, Lenkurt, and Visual Electronics. The case which the majority has made for invigoration of the domestic broadcasting equipment market is thus very tenuous. And there is uncontradicted expert testimony in the record that integrated technology-and-broadcasting companies have little incentive to make meaningful technological advances. (J 334). The majority chooses not even to mention this evidence.

In attempting to show that ABC will operate autonomously within ITT, the majority admits that ITT is a highly centralized company. But then it adds that "the evidence is clear and uncontroverted that the usual relationship between ITT and its other subsidiaries will not be the pattern for the relationship between ABC and ITT." (par. 40). But the evidence [5452] is not that "clear and uncontroverted." In September Mr. Geneen explained to us that ABC's relationship to the ITT complex would be "harmonious" with the existing ITT system. See Section II, *supra*. The "clear and uncontroverted evidence" to which the majority anonymously refers consists of nothing more than further, and inconsistent, assurances of Mr. Geneen, this time that ABC's relationship to ITT will be "unique." Such statements, if they prove anything, only demonstrate the folly of relying on self-serving declarations for as-

surances of future conduct—even for assurances of future self-serving declarations.

Now the majority seems to feel that ABC's autonomy is no longer important. (par. 45). This new note sounded by the majority is not only at odds with the parties continued stress on ABC's autonomy, but with the majority's own faith in the magic of autonomy last December (par. 22). Moreover, we think we have, in Sections II and VI, *supra,* adequately dealt with the majority's gratuitous suggestion that "top management of ITT is of such character and ability that their [sic] participation in ABC's important policy discussions will be a plus, not a minus. (par. 45).

[5453] The majority's attempt to show that the merger is necessary to insure the continuation of ABC's news, public affairs and other quality programming (par. 69), is constructed of whole cloth. While it is true in an accounting sense that the ABC network loses money, there is persuasive and unrebutted testimony that a radio-television network and its owned and operated stations must be viewed as an economic unit. (Goldin 3034–36). The highly profitable ABC-owned stations sustain their high levels of income precisely because of their affiliations with the ABC network. This entire unit can easily sustain the present and higher levels of public service programming with no threat to that profitability.

The motives which induce stations and networks to broadcast public service programming are quite complex. Indirect pressure from this Commission and the Congress, appeal to an influential segment of the population, the embarrassment of profits totally disproportionate to investment in a company with awesome public service responsibilites, [5454] a desire to match the programming performance of competitors, and a sense of public duty and professional and personal pride are all significant factors. The majority somehow feels that an ABC less profitable than the other networks will not be able to sustain a high level of these loss items. But ABC has been less profitable than its competitors since its inception. Its profits have been rising rapidly in recent years and all sophisticated prognosticators, including ITT, expect this trend to continue. (See J 268; Goldin 3029–32). There is no record evidence that ABC

has recently sustained a level of public service programming inferior to the other two networks. In the absence of such a showing, the burden of which obviously rested on the parties, there can be no serious contention that the level of ABC's public service programming will fall in the future in some mathematical proportion to its continued rise in profits. Of course, this is a matter almost entirely within ABC's power to control, and it can always play "I told you so" by expanding its public affairs programming after the merger (or curtailing it if the merger were disapproved). But we believe it is clear that, whatever ABC does in fact, its economic and other motivations for public service programming will not be favorably altered by this merger.

After the belabored body of its opinion, the majority summarizes its findings with regard to detriments and benefits in a revealing twelve paragraphs. (par 84). All but one of the majority's purported conclusions [5455] (the exception being that dealing with the television advertising market) we find to be unsupported by, or at odds with, the record evidence in this case.

We have examined at great length the evidence of ITT's potential competition in the television network market and have found that, given developments which are quite likely within five or ten years, ITT would have been (but for this merger) one of the few most likely entrants into the market at a time when barriers to entry will have been reduced markedly. Moreover, the majority's narrow focus on "networks" badly misconstrues the competitive situation. For non-network syndicators, which ITT might well have become by purchasing a presently non-syndicating major group, exert a real and present competitive influence on networks. Furthermore, there are individual station markets where competition is quite important. If ITT had pursued its interest in obtaining licenses for UHF stations it could have invigorated competition in those markets immediately and still have been in a position to enter networking in five or ten years.

The majority ignores the evidence that ITT forsook CATV because of its interest in ABC. It finds the obstacles to a CATV network so great that it refuses to seriously consider the com-

petitive possibilities. We think it is much more reasonable to conclude that the competitive reality of CATV is great, the competitive potential much greater, and that the regulatory issues are in such a state of flux that this is no time to ignore the potential of CATV. The record establishes rather clearly that ITT [5456] would have become a very potent force in CATV, at least if it had decided not to pursue its interest in conventional broadcasting.

The majority finds that ITT will aid ABC technologically. This is based on generalized assertions of the parties to the merger. It finds no other record support. There was no reference in the hearings to a specific technical problem which ABC has been unable to solve *because* of its lack of a technical division. Nor was any evidence presented that CBS and NBC have gained any advantage from their technical divisions. On the contrary, ABC's steady advance to a position of prime time competitiveness with the other two networks indicates that it has encountered no significant technological obstacles. And the majority's recitation of a long list of firms engaged in broadcasting technology (par. 31), plus the additional list we have provided, would seem to indicate that there are sufficient firms to solve any significant problems which ABC might present.

With its scepticism about competitive possibilities in other areas, it is really remarkable that the majority insists that ITT will invigorate competition in the broadcast equipment market. Such a contention is belied by the large number of firms in this industry which the majority itself recites. (par. 31).

Now admitting that the results may be "limited", the majority still places faith in the aid that ITT will give to UHF. In order to insure even this limited benefit, the majority has had to condition its approval [5457] on annual reports by ITT of its work in this area. This, of course, is a charade. The reports will be received and go unchallenged and will be irrelevant to any decisions with regard to the companies. ABC and ITT know this. But more than this, the majority cannot fabricate a benefit from this merger by making up one itself and then conditioning the merger's approval on its realization. Such a benefit is clearly not derived from the merger, but rather from

Commission regulation, which it might well undertake by rule-making without the merger. The evidence, as we have seen, is highly ambivalent with regard to ITT's incentives in UHF, once it owns ABC. Instead of realistically analyzing this evidence and concluding, as it would have to, that no benefit has been shown, the Commission lays down conditions and thereby escapes its duty. This is, in some respects, one of the most dramatic instances of the majority's grasping for straws—straws which it has first had to toss into the air itself.

The Commission finds the detriment to the independence of ABC in regulatory matters to be "slight in nature." While we do not claim that it is vital to the future of the Republic, we take heart in the majority's willingness to at least recognize it as a detriment and will only urge that we believe our analysis demonstrates that the detriment can more truly be described as "significant" than "slight."

The majority finds "clear and convincing" the evidence that the independence and integrity of ABC news will be maintained. It has [5458] admitted that one official of ITT acted improperly. In doing so it has, once again, ignored substantial quantities of probative evidence: the conduct of other ITT public relations officials, which, if not as outrageous as that of the one official, is consistent with it and should be taken to indicate something about the company as well as its ability to control its officials; the absence of any indication that ITT agrees with the majority that the one official's conduct was improper; the disdain which ITT has evidenced for the processes of this Commission in this very proceeding and in more than one instance in the past; the intimate involvement of ITT with government officials in this country and abroad; the highly centralized control in the ITT system; and the common knowledge of mankind that subordinates will often act to please superiors regardless of the merits of the conduct.

The majority feels that the merger will induce ABC to affiliate with more UHF stations. Yet ITT has no clear incentive to encourage more viable UHF, and the majority's reliance on reporting conditions cannot create this incentive. But even if

ABC were to affiliate with one or two UHF stations a year earlier than it otherwise would, the effect on UHF would be so evanescent that it is unworthy of consideration in this proceeding. In four or five years the UHF set penetration will be so great that the influence of a few extra 1967 network affiliations will be *de minimis*.

[5459] It is difficult to grapple with the majority's contention that somehow ITT's financial strength will aid ABC, because it is difficult to be sure what is meant. The majority may mean that loss items such as news and public affairs will be undertaken more readily by larger organizations where the ultimate effect on the income statement is less pronounced. While we can understand this argument in theory, there is no record evidence to support it with regard to NBC news and public affairs programming as compared with that of ABC and CBS. And evidence in the record suggests that ITT is a highly profit-oriented and aggressive business. Surely if the parties wished to rely on such an argument, it was incumbent upon them to present probative evidence. And the majority must point to more evidence than extra-record writings of one commentator not subjected to cross-examination to sustain its thesis.

On the other hand, the majority may just be referring in a more general way to the old contention that ABC needs ITT money, in order to make the expenditures necessary for good network programming. But the majority has now foresaken this contention, after its principal reliance on it in December, in the face of overwhelmingly convincing record evidence to the contrary. No one denies that ITT has greater financial resources than ABC. The question must be if this will aid ABC in some discernible way. The answer on this record must be "no."

[5460] The majority says that it is acting in the light of "this agency's history of attempting to improve ABC's competitive posture vis-a-vis the other two networks." (par. 86). We think the public record discloses that of our number especially Commissioner Cox joined fully in that attempt. In fact, he has urged a number of courses designed to further that effort, both before and since becoming a member of the Commission, in

which those members of the majority who were here at the time did not see fit to join. Those suggestions dealt with matters of allocations policy (the drop-ins and deintermixture) and of policy with regard to network affiliation (market sharing) which were designed to strike at the root cause of ABC's problem which was, then as now, the lack of equally competitive facilities in certain major markets. Those of the majority who did not choose to deal with fundamental causes are now zealous to achieve the desired result through large infusions of money. (And see Commissioner Johnson's earlier discussion of what he felt to be these still available and "dramatically more effective" ways for a "truly and responsibly concerned Commission" to promote ABC competiveness. 7 F.C.C. 2d 278, 316–18.) We are sure that if money could have solved the problem, ABC's able management would have long since raised the necessary funds through borrowing or the issuance of additional stock. We are afraid that the majority, like the applicants, resorts to ABC's claimed need for large sums which it asserts it cannot obtain through any means short of this merger simply to explain and justify results reached on other grounds. (We believe the majority [5461] has softened its stance on this point (par. 68), but still seeks, somehow, to use it, since it continues to emphasize ITT's financial support. It seems to be saying that ABC may not *need* the merger to finance its plans, but that it would be *easier* to do it in this way. This is completely at odds with the contentions of the applicants (though they, too, have tried to downplay the claim of financial need because it has blown up in their faces) and with the position of the majority in its decision of last December.)

Since we still desire competitive equality for ABC, we are setting down certain conclusions we have reached on this record which are sharply at odds with those of the majority:

> (1) We do not believe that ABC had in December 1965—or that it has now—any need for funds for purposes which would truly advance its competitive posture and which it could not have raised absent this merger.

(2) We do not believe that ABC has ever suffered any technological disadvantage by virtue of its lack of its own research facilities. The majority's requirement of annual reports of expenditures by ITT in lending technological support to ABC will establish that money has been spent, but not that it achieved an improved competitive posture for ABC or that the latter could not have obtained the same benefits from others—perhaps at less expense.

(3) We do not believe that ABC's competitive position will be enhanced by its surrendering secondary clearances on VHF stations for primary affiliation with UHF stations, which the majority seems to require—though we do not believe the applicants made any such commitment. In fact, at least the short range result will be to reduce ABC's present audience levels which are so critical to its competitive posture.

[5462] (4) We do not believe that ABC's interests will be served by an across-the-board improvement in UHF technology—though the public interest would be served thereby. However, we think this is academic because ITT cannot promise such technological advances, nor can the Commission require them—any more than King Canute could command the sea.

(5) We do not believe that ABC's competitive position will be improved by the "cultural programming innovation" which the majority seems to expect (par. 69)—though, again, the public interest would be advanced. Such programs, however desirable, are not the tools for achieving competitive equality. The news and public affairs expansion which the majority also expects *are* ingredients of a successful network, but these were already committed before the merger and do not depend upon it.

In other words, we believe that the talk of achieving competitive equality as a result of the merger is a smoke screen, and that the expectations of consequent improved service for the public are sheer speculation. We do not mean to say that ABC cannot become more competitive or that it cannot serve the public better—we think it was on the way toward both objec-

tives before it agreed to merge with ITT, and that it would continue to improve in both regards without the merger.

This is the second time this case has been before the Commission. When the Commission first decided in favor of the merger, the three of us each had strong reservations, bolstered by evidence, that serious detriments to the public interest inhered in union of ABC and ITT. It was most apparent, furthermore, that the justification for the merger was tenuous, and obviously had been constructed with a view of convincing [5463] the Commission. The parties, it appeared, had their own private reasons for merging, quite unrelated to the public interest. What was certain was that the procedures the Commission had followed had explored none of these issues in depth.

With public attention and the interest of the Justice Department came sufficient pressure to force a reluctant Commission to order a further hearing—with three of the present majority "abstaining" from voting. Now the record of that hearing is open to public inspection. Our fears of detriment are clearly confirmed by that record; our understanding of the process of fabrication of "justification" for the merger is deepened. For some unfathomable reason the majority has chosen to largely ignore that record and reaffirm the conclusion which it seems irrevocably to have reached in December.

If the majority's approval of the merger is allowed to stand, we hope that it is correct in its appraisal of the matter, and that we are wrong, because the issues posed here are of critical importance to this nation. But if the results are more favorable than we anticipate, this will not represent the natural flow of events to be rationally predicted on the basis of the record made here. On this record it seems clear to us that the expectable detriments from this merger outweigh the hoped-for benefits. We therefore do not believe that the majority's grant [5464] of approval for the merger is in the public interest. We dissent, more in sorrow than in anger, for it is the public interest in a strong, competitive and free broadcasting and common carrier service which is the real loser from this action.

[5465] APPENDIX

CHRONOLOGY AND DOCUMENTS INDEX

Dec. 3, 1965. The impending merger of ABC and ITT is reported in the New York Times.

Feb. 14, 1966. ABC and ITT enter into the merger agreement.

Mar. 31, 1966. The applications for assignment of license and transfer of control are filed with the Commission by ABC. These applications included: detailed applications for each of the stations; an exchange of letters between Mr. Geneen and Mr. Goldenson (Mar. 18, 1966 and Mar. 28, 1966) detailing the understandings between the two companies as to the relationship of the parent and subsidiary; ABC organization charts; ABC program standards and policy statements; a description of ABC-owned radio and TV stations and their organizational relationship in the Company; a narrative history and analysis, "ABC—Past, Present, and Future"; financial data on the relative positions of CBS, RCA, ITT, ABC, and ITT–ABC; Proxy statements of ABC and ITT (both dated Mar. 25, 1966); ITT's and ABC's 1965 Annual Reports; a listing of ABC's tangible property used in broadcasting; ITT–ABC Statement of Incorporation and Bylaws; proposed Boards of Directors for the new ABC and ITT as well as the other business interests of those directors; interlocking broadcast interests of certain stockholders and the proposed remedies.

Apr. 14, 1966. The ABC applications are accepted for filing by the Commission.

May 11, 1966. A petition to deny the applications is filed by Hubbard Broadcasting, Inc., alleging that since its AM station (KOB, Albuquerque, N.M.) is embroiled in a dispute with ABC's WABC (New York), and WABC's license has not been renewed, WABC has nothing to transfer, and to effect any transfer would prejudice Hubbard's rights in the proceeding.

May 20, 1966. ABC opposes Hubbard Broadcasting's petition to deny.

June 2, 1966. Hubbard replies to ABC's opposition.

June 8, 1966. Letter from FCC Chairman Rosel H. Hyde to Assistant Attorney General (Antitrust) Donald F. Turner asking to be kept informed of the Division's studies and conclusions.

[5466] June 21, 1966. Letter from Donald F. Turner to Chairman Rosel H. Hyde acknowledging that the Division was examining the merger.

June 30, 1966. Letter from Rosel H. Hyde to Donald F. Turner saying the Commission planned to take up the merger very shortly and asking when the Division's views would be available.

July 20, 1966. By a 4–2 vote letters are sent to Mr. Harold S. Geneen (President, ITT) and Mr. Leonard Goldenson (President, ABC) asking for further information on the financial resources ITT plans to provide ABC, and the question of autonomous operation of ABC as an ITT subsidiary.

July 25, 1966. Mr. Geneen and Mr. Goldenson reply to the Commission on the above questions.

July 27, 1966. Letter from Donald F. Turner to Rosel H. Hyde saying that the Division's views will not be available for some time, but that the complexity and importance of the issues precludes hasty conclusions.

Aug. 18, 1966. The Commission orders an oral, *en banc* hearing.

Sept. 5, 1966. The Commission announces the order of appearances and amount of time to be used at the oral hearing.

Sept. 7, 1966. ABC and ITT file further evidence in the proceeding including: ABC station facilities; competition faced in markets with owned stations; audience and financial comparison of network affiliates in TV and radio; ITT products and services, purchases from ABC, U.S. TV advertising, media advertising, executive turnover, and an analysis of other present and potential corporate dealings between ABC and ITT.

Sept. 19–20, 1966. Commission holds oral hearing on the proposed merger. Transcript record of hearing is prepared.

Oct. 6, 1966. Letter from Robert Bennett (Legal Assistant to Commissioner Johnson) to Mr. Marcus Cohn (Counsel for

ITT) requesting copies of Mr. Geneen's recent speeches and statements.

Oct. 10, 1966. Mr. Cohn's reply, including 12 speeches and statements of Mr. Geneen.

[5467] Oct. 25, 1966. Letter from Rosel H. Hyde to Donald F. Turner saying the Commission would probably make a decision soon and reminding him of the Commission's continuing liaison and interest in receiving any Division views on the merger.

Nov. 2, 1966. Letter from Commissioners Bartley, Cox, and Johnson to Mr. Geneen asking for further information on ITT's foreign interests including: a list of subsidiaries, directors, stockholders; joint ventures and agreements; contracts; a list of confiscations; foreign shareholders in ITT with largest interests; employees whose duties include liaison with foreign governments; and any significant litigation involving foreign interests.

Nov. 3, 1966. Letter from Donald F. Turner to Rosel H. Hyde saying that the Division's intense study is not complete, but that substantial antitrust questions are present.

Nov. 17, 1966. Mr. Geneen replies to the letter of Nov. 2 from three Commissioners, including the requested material, of which the listing of foreign stockholders is denominated confidential.

Nov. 23, 1966. Letter from Commissioners Cox and Johnson to Mr. Geneen asking for further information on ITT's foreign operations including: its Chilean contracts; foreign subsidiaries with ITT minority interests; foreign licensing, sales and franchise agreements; government liaison and testimony to government bodies; its Cuban subsidiaries; ITT statements on expropriation and foreign investment; a country-by-country breakdown of assets and investments; the government's reasons for expropriating ITT property; a narrative on how ITT would deal with a conflict between ITT's foreign interests and ABC's independence of news presentations.

Dec. 8, 1966. Mr. Geneen replies to the letter of November 23, including material on the Chilean contracts; and licensing,

sales and franchising agreements which were denominated confidential.

Dec. 19, 1966. Assistant Attorney General (Criminal) Fred M. Vinson replies to the FCC General Counsel's letter of the same date stating that neither the Department nor a grand jury [5468] had found evidence to support prosecution of the allegations that ITT officials had violated the Corrupt Practices Act.

Dec. 20, 1966. Letter from Donald F. Turner to Rosel H. Hyde analyzing the public interest and antitrust issues of the merger.

Dec. 21, 1966. Mr. Marcus Cohn (ITT Counsel) files rebuttal letter to December 20 letter of Mr. Turner.

Dec. 21, 1966. The Commission by a 4–3 vote (Bartley, Cox and Johnson dissenting with separate statements) grants the applications.

Jan. 18, 1967. Department of Justice (Antitrust Division) (DOJ) files an application for stay of the merger and petition for reconsideration and leave to intervene stating that the Commission had failed to give adequate consideration to important merger issues, that its procedures were inadequate, and that the proceeding should be reopened.

Jan. 26, 1967. ABC and ITT file an opposition to the DOJ petition stating that the DOJ petition is untimely, that the DOJ shows no good cause for being untimely, that the petition makes no specific and particular allegations, that a full and complete record has been established, that the Commission fully considered all relevant issues including those antitrust matters raised, that ABC's need for financial help is genuine, and that the merger does not threaten objectivity of ABC's news and public affairs reporting.

Jan. 30, 1967. DOJ replies to the ABC and ITT opposition.

Feb. 1, 1967. By a 5–2 vote (Bartley and Wadsworth dissenting, Cox, Loevinger and Johnson concurring) the FCC stays the effect of its Dec. 21, 1966 order, and orders further proceedings.

Feb. 2, 1967. The American Civil Liberties Union (ACLU) petitions for reconsideration and leave to intervene.

Feb. 3, 1967. Gerald H. Gottlieb files petition as proposed *amicus curiae*.

Feb. 14, 1967. ABC and ITT file opposition to the ACLU petition.

[5469] Feb. 15, 1967. The DOJ files a Specification of Issues and Evidentiary Material along with 260 documents dealing with the merger negotiations; ITT's interest in CATV and other broadcast properties; and the evaluation by ITT and ABC of the merger.

Feb. 17, 1967. ABC files a $25 million agreement made with ITT.

Feb. 20, 1967. ACLU tenders submission of testimony by Sidney Dean.

Feb. 21, 1967. ABC and ITT file letter opposing Gottlieb's participation.

Feb. 23, 1967. ABC and ITT file a statement in response to the DOJ specification, concluding that reopening of the case is not warranted. Five documents related to the case are also filed.

Feb. 23, 1967. ABC and ITT file a motion to strike the Feb. 20 ACLU submission.

Feb. 28, 1967. DOJ files a rebuttal statement.

Mar. 10, 1967. Gerald H. Gottlieb files letter retendering petition for participation as *amicus curiae*.

Mar. 16, 1967. By a 4–0 vote (Lee, Loevinger, and Wadsworth abstaining) the Commission orders an expedited hearing to begin on Mar. 27, before a Hearing Examiner with immediate certification of the record to the Commission; denial of the ACLU petition but with invitation to file statement as *amicus curiae* and denial of the Gottlieb petition.

Mar. 22, 1967. The DOJ applies for a continuance at the hearing for two weeks.

Mar. 22, 1967. The FCC Broadcast Bureau supports the DOJ request for continuance.

Mar. 22, 1967. ABC and ITT oppose the request for continuance.

Mar. 22, 1967. The Commission by a 5–0 vote (Loevinger and Wadsworth absent) grants the request for continuance.

Mar. 23, 1967. First pre-hearing conference before Chief Hearing Examiner James D. Cunningham.

[5470] April 6, 1967. Second pre-hearing conference held.

April 10–26, 1967. Hearings held.

April 27, 1967. Record certified to the Commission by the Examiner; 3,882 pages of record, 356 DOJ exhibits, 51 Broadcast Bureau exhibits, and 146 ABC and ITT exhibits; all dealing with all aspects of the case discussed in the opinion.

April 28, 1967. The Commission on its own motion (7–0) modified its order establishing deadlines for findings of fact, reply findings, and conclusions of law. Oral argument set for June 1, 1967.

May 4, 1967. The ACLU requests a delay in the deadline for filing its *amicus curiae* brief.

May 5, 1967. The Commission by a 4–0 vote (Lee, Cox, and Wadsworth absent) denied the ACLU motion, but on its own motion granted a partial extension of time to file its brief along with a statement showing why its participation would serve a useful purpose.

May 9, 1967. The DOJ files a petition asking for an extension of time for the filing of findings of fact, reply findings, and oral argument.

May 9, 1967. ABC and ITT file oppositions to the DOJ petition.

May 10, 1967. The Commission by a 5–0 vote (Wadsworth and Johnson absent) grants in part the extension of time.

May 22, 1967. DOJ, Broadcast Bureau, ABC and ITT file Findings of Fact.

May 24, 1967. The Commission by a 6–0 vote (Wadsworth absent) grants extension of time for ACLU to tender its amicus curiae brief.

May 26, 1967. ACLU files its brief opposing the merger, and calling for a study of the present structure of broadcasting.

May 29, 1967. The Commission by a 4–0 vote (Bartley, Wadsworth and Johnson absent) announces the order of appearances and amount of time for oral argument.

[5471] June 1–2, 1967. Oral argument is heard in the case before the Commission *en banc*, with DOJ, Broadcast Bureau, ABC and ITT participating. Transcript now totals 4327

pages. The case is taken under advisement by the Commission.

June 12, 1967. Letter from Donald F. Turner to Ben F. Waple (Secretary, FCC) asking that in the event that the applications are approved by the Commission, a 30 day period before consummation be provided in order to allow the Justice Department to consider an appeal.

June 16, 1967. Letter from James A. McKenna and Marcus Cohn (ABC and ITT counsels) to Ben F. Waple stating that no provision would be needed since the parties now agree not to merge for 30 days.

June 22, 1967. Commission by a 4–3 vote (Cox, Bartley, and Johnson dissenting in a joint opinion) affirms its December 21, 1966 opinion, dissolves the stay of the merger, and denies the DOJ petition for reconsideration.

[Federal Communications Commission Exhibit No. J–2; presented by Justice Department]

[1571] BERGSON & BORKLAND,
TWELFTH FLOOR, 888 SEVENTEENTH STREET, N.W.,
Washington, D.C. 20006, April 22, 1966.

Re ABC Civil Investigative Demand No. 0739 DFT:DFM.

DONALD F. MELCHIOR, *Esquire, Chief, Special Trial Section, Antitrust Division, Department of Justice, Washington, D.C. 20530.*

DEAR MR. MELCHIOR: This is in response to numbered paragraphs 2 and 8 of your letter of March 22, 1966 requesting certain information in addition to that already furnished by ABC in compliance with the above Civil Investigative Demand.

In response to paragraph 2, ABC estimates that it will expend approximately $46,000,000 during the next ten years to replace worn out or depreciated equipment and apparatus which is used in the operation of its television and radio stations, studios and networks. It is further estimated that less than 2 per cent of these expenditures will be for products which are of the same or similar type to those manufactured or furnished by ITT.

In response to paragraph 8, ABC has already made such changes in its studios and facilities as are necessary to enable it

to broadcast television programs in color. ABC plans to complete the colorization of its studios and facilities during the next four years, at an estimated cost of $31,760,000. Virtually none of this amount will be spent for products of the same or similar type to those manufactured or furnished by ITT.

This letter supplements our letter of April 15, 1966, in which we responded to numbered paragraphs 4, 5, 6 and 9 of your letter of March 22, 1966. We regret the delay in furnishing you the information requested in the remaining numbered paragraphs 1, 3 and 7 of your letter. That information will be forwarded to you in the very near future.

Sincerely yours,

HERBERT A. BERGSON.

[Federal Communications Commission Exhibit No. J–5; presented by Justice Department]

[1581] MINUTES of a Special Meeting of the Board of Directors of American Broadcasting Companies, Inc., a New York corporation, held at the office of the Corporation, 7 West 66th Street, New York, N.Y. on Tuesday, December 7, 1965 at 4:00 P.M. E.S.T.

PRESENT:

Messrs. Alger B. Chapman
Samuel H. Clark
John A. Coleman
Everett H. Erlick
E. Chester Gersten
Leonard H. Goldenson
Jack Hausman
Robert H. Hinckley
Robert L. Huffines, Jr.
George P. Jenkins
Walter P. Marshall
Joseph A. Martino
Thomas W. Moore
Simon B. Siegel

constituting all of the members of the Board of Directors and a quorum. Mr. Thomas C. Burke, of White & Case, counsel to the

Corporation, and Mr. Jerome B. Golden also attended the meeting at the invitation of the Board of Directors.

Mr. Leonard H. Goldenson, President of the Corporation, acted as Chairman of the meeting. Mr. Golden, Secretary of the Corporation, acted in his official capacity.

[*Federal Communications Commission* Exhibit No. J–5; presented by Justice Department]

The Secretary presented the notice of the meeting and stated that such notice had been given to all the members in accordance with the By-Laws. The Chairman directed that a copy of the notice be filed with the records of the meeting.

The Chairman stated that he had been approached about a year ago concerning the possibility that the Corporation ("ABC") might be [1582] interested in a merger with International Telephone & Telegraph Corporation ("ITT"). He stated that although he and Mr. Siegel had held exploratory discussions from time to time during the last year with Mr. Harold S. Geneen, Chairman and President of ITT, intensive negotiations had not taken place until the past few weeks. He then asked Mr. Siegel to review in detail the course of the discussions and the considerations bearing upon the advisability of a merger of ABC with ITT.

Mr. Siegel then gave a chronological history of the discussions both with ITT and with other corporations. He noted that as early as December, 1964 Mr. Goldenson had reported to the Board that he had been contacted by an emissary on behalf of ITT concerning the possibility of a merger on a share for share basis but that after discussion it had been the consensus of the members of the Board that there would be no interest in a merger on the terms proposed, and that it would be in order for Mr. Goldenson to so advise ITT after the first of the year and report back to the Board with respect to any better terms.

Mr. Siegel further noted that Mr. Goldenson had reported to the Board in January, 1965 that he had been further approached by another emissary on behalf of ITT with respect to such a merger, that this emissary reported that Mr. Geneen had indicated a willingness to discuss an exchange of stock with an

estimated value of $70 to $75 per share of ABC stock, but that it had been clear that there was no possibility at the time of reaching an agreement pursuant to which the stockholders of ABC would receive more than $80 per share based upon the estimated value of ITT stock to be issued in the transaction. It was concluded that such a price was unsatisfactory [1583] from the point of view of ABC, and negotiations did not continue further at the time, although it was agreed that Mr. Geneen could be in contact with Mr. Goldenson from time to time.

Mr. Siegel also mentioned that in June, 1965 the Corporation had been approached by General Electric Company concerning a possible merger. He said that price had not been discussed but that General Electric had indicated that it wished to determine first whether such a merger would be feasible from its standpoint. Mr. Siegel said that no further approach had been made by General Electric but that he understood that General Electric had concluded that a merger would not be feasible.

Mr. Siegel stated that Mr. Goldenson and he had come to the conclusion that the future of the Corporation would be enhanced if it were to join a larger complex. He stated that, accordingly, when Mr. Geneen further contacted them recently, Mr. Goldenson and he negotiated more seriously than in their previous discussions. He mentioned that Mr. Geneen had proposed that ABC shareholders receive the equivalent of $83 per share in ITT stock for each share of ABC stock, that Mr. Geneen had raised this figure in very small amounts a number of times during the course of their negotiations and that Mr. Geneen had finally indicated that he was willing to recommend to the ITT Board of Directors a price equivalent to an estimated $85.50 in ITT common and convertible preferred stock, based upon the current market price of ITT common stock, for each share of ABC stock, but no more. Mr. Siegel stated that Mr. Geneen had made it quite clear that ITT would not offer a higher price. Both he and Mr. Goldenson then stated that they were fully convinced that this was the top price which ITT would offer.

[1584] Mr. Siegel further stated that on December 1, 1965, after the announcement that negotiations between ITT and ABC were in progress, Mr. Herman Kahn of Lehman Brothers suggested that before reaching any agreement the Corporation talk with Litton Industries.

Mr. Kahn arranged a meeting the same day among Mr. Siegel, the President of Litton Industries and himself. On the following day, Litton indicated a willingness to make an offer in convertible preferred stock of Litton for each share of ABC stock, stated what their offer would be and that in no circumstances would they make a higher offer. Mr. Siegel stated that neither he nor Mr. Goldenson considered the proposed offer attractive as compared with the proposal of ITT, especially in view of the presently high price earnings ratio of the Litton common stock into which such preferred stock would be convertible.

Mr. Siegel indicated that, in addition to the amount and nature of the ITT securities to be issued in the proposed merger, Mr. Goldenson and he had discussed with ITT such other matters as the maintenance of ABC as an autonomous subsidiary of ITT under the present management of ABC and the maintenance of employee benefits, such as the ABC Retirement Plan, Key Employees Incentive Compensation Plan and stock options, and the execution of employment agreements, and similar matters, and had received satisfactory assurances with respect thereto. He further stated that Mr. Geneen had expressed a willingness to represent to the Federal Communications Commission that ABC would be continued as an autonomous subsidiary of ITT under the present management of ABC.

Mr. Siegel then outlined at length the considerations bearing upon [1585] the advisability of a merger with ITT on the terms proposed. He presented to the meeting a memorandum containing financial data with respect to the two companies and a projection of such data on a combined basis after a merger.

Mr. Siegel mentioned that he had consulted two outside disinterested persons knowledgeable in financial matters as to the

justification for the projected base price of the new convertible preferred stock which ITT was prepared to offer under the terms of the proposed merger which he had described and that both such persons had concluded that the probable market price of such preferred stock, based upon the current market price of the ITT common stock and in light of the proposed provisions with respect to dividends, conversion rate and protection against call, was very much in line with the projections set forth in the above-mentioned memorandum which he had submitted to the Board.

Mr. Siegel went on to state that among the principal advantages which might be foreseen from a merger with ITT were the fact that ITT's accounting department is fully automated and that the benefits of such automation would be available to ABC, whereas the installation of automation by ABC, which he deemed essential, would cost many millions of dollars; that ITT's experience in engineering would be of great benefit to ABC; that ITT is firmly established abroad and he feels that this would enhance ABC's growth in foreign television; that if ABC were part of a larger complex, the wide fluctuations in earnings typical in the broadcasting business should be reduced and that he believed that ABC's image in the eyes of sponsors would be enhanced if it were part of a larger and stronger complex.

[1586] There followed an extensive discussion among the Board members concerning the advisability of accepting the proposal made by ITT. Among the factors discussed at length were the estimated market value of the stock to be issued by ITT in the merger, the history of growth of ITT, the nature of its business, the quality of its management, the likelihood of long-range benefits to be realized by ABC stockholders from such a merger, the likelihood of approval of the merger by the Federal Communications Commission and other regulatory authorities, and the absence of any other company a merger with which would appear beneficial to ABC or feasible. Mr. Goldenson and Mr. Siegel both stated that they considered that they had obtained the best possible offer and that there was serious risk that an agreement would not be reached even on the

basis of the present offer if negotiations for a higher price were to continue.

There was then presented to the meeting a "Memorandum for Consideration by Boards of Directors of International Telephone & Telegraph Corporation and American Broadcasting Companies, Inc." and a draft of Press Release, both setting forth the principal terms of the proposed merger, each of which was ordered filed with the minutes of the meeting. The Board considered both documents at length.

Counsel was asked whether it would be appropriate for the Board to accept the ITT proposal at this time subject to the execution of a formal agreement and the satisfaction of other appropriate conditions. Mr. Burke stated that, in his opinion, if in the exercise of their business judgment, the members of the Board considered that a merger on the terms proposed was in the best interests of the Corporation and its stockholders, it was appropriate [1587] for the directors to accept such proposal, subject to the above-mentioned conditions.

Thereupon, on motion duly made, seconded, and unanimously carried, it was

RESOLVED that it is advisable and in the best interests of the Corporation and its shareholders that the Corporation merge with International Telephone & Telegraph Corporation upon terms and conditions substantially as set forth in the "Memorandum for Consideration by Boards of Directors of International Telephone & Telegraph Corporation and American Broadcasting Companies, Inc." and draft of Press Release presented to this meeting, subject, however, to the approval by this Board of Directors, and the execution and delivery, of a definitive agreement of merger which will provide, among other things, for the continued autonomous operation and management of American Broadcasting Companies, Inc. under its present management as a separate subsidiary of International Telephone & Telegraph Corporation, it being understood that the term "merger" as used herein shall refer to the transaction in such form (whether statutory merger, transfer of assets, or otherwise) as may be specified in said definitive agreement; and further

RESOLVED that, subject to the execution of a definitive agreement of merger, this Board of Directors recommends that the shareholders of the Corporation authorize and approve the transaction referred to in the preceding resolution.

There being no further business to come before the meeting, the same was, on motion duly made and seconded, adjourned.

Secretary

* * * * *

[Federal Communications Commission Exhibit No. J–6; presented by Justice Department]

[1589] *To Our Shareholders:*

The 1965 Annual Meeting of Stockholders was held on May 18th in our main television studios in New York City. This year, owners of 3,851,482 shares or over 83% of our common stock were represented either in person or by proxy.

At the meeting, the fourteen nominees were elected to serve as your directors for the coming year. The selection of Price Waterhouse & Co. as independent auditors was ratified. The proposed change of name of the Corporation to American Broadcasting Companies, Inc., a qualified stock option plan and amendments to the Key Employees Incentive Compensation Plan were all approved. Two stockholder resolutions were not approved.

This report contains the text of my remarks, a summary of the discussion period and the results of the balloting.

I would like to express our appreciation to our shareholders for their support. It was a pleasure once again to meet with those of our shareholders who were able to attend the meeting.

Sincerely,

LEONARD H. GOLDENSON,
President.

PRESIDENT'S REMARKS

I would like to introduce these gentlemen on the dais who have been nominated to serve as your directors for the coming year. (Mr. Goldenson introduced the directors and then continued.)

When I spoke to you at this time last year, we were very optimistic about our prospects and we are pleased that our expectations were realized. Revenues and earnings from operations for this past year 1964 were at record levels and operating earnings increased 49% over 1963.

For the first quarter of 1965, operating earnings were the highest for any three months period in our history and represented a 46% increase over the like period of 1964—equivalent to 90¢ a share compared with 63¢ a share last year.

We fully expect that 1965 will be another record year. It will also be a significant year for color television which will provide further stimulation and excitement in broadcasting with the more rapid development of color programming and [1590] increasing advertiser interest. It will also be a year for the practical beginnings of international television communications through satellite transmission, which will, as time goes on, bring a new dimension to television and enlarge our opportunities for future growth.

The successful launching of the Early Bird satellite also opens up new opportunities for satellite transmission for domestic broadcasting.

For a number of weeks, our Company has been studying the feasibility of using an Early Bird type of communication satellite for transmission of television programs in the United States. After consultation with officials and scientists of the Hughes Aircraft Company and the Space Technology Laboratories, we have come to the conclusion that such satellite transmission by a later generation of an Early Bird vehicle is now entirely practical. That is why we filed a letter last week with the FCC informing the Commission of our intention, as soon as technical plans are completed, of applying to them for the allocation of frequencies for such a domestic television satellite.

Such a satellite would, we are convinced, greatly enlarge our network service, particularly for news coverage on a round-the-clock twenty-four hour day basis. It would also greatly broaden the "live" coverage for our affiliated stations and provide many additional services to them that are not presently possible. The Hughes Aircraft and Space Technology Laboratories experts

have assured us that a later generation of communication satellite can have multiple channels. If the appropriate agencies of the Federal Government approve this project and if the satellite has multiple television channels, we would be willing, as a national public service, to provide one of these channels free of charge to the National Educational Television Network for the transmission by satellite of programs for use by educational stations throughout the United States.

We believe, on the basis of our intensive surveys, that satellite transmission in the United States is not only practical in the future, but will result in a broader and more economic method of program transmission for our Company.

ABC TELEVISION

The ABC Television Network is enjoying the best season in its history in terms of audience acceptance. The results of the network's efforts over the past two years in building its schedule to a fully competitive position in nighttime programming were realized in the 1964–65 season. For the current television season, October through April, the three networks virtually tied in audience during the prime evening viewing hours.

With the competitive race so close, advertisers found significant advantages of ABC–TV's programming popularity with the families representing the best market potential: a clear-cut dominance by ABC–TV among the larger and growing family households—with three or more members and with the head of the household under 50—who traditionally need and buy more goods and services.

The forthcoming 1965–66 schedule is distinguished by an impressive balance of stability and vitality. The stability is represented by such perennial favorites as THE LAWRENCE WELK SHOW, THE FLINTSTONES, DONNA REED, ADVENTURES OF OZZIE & HARRIET, BEN CASEY, COMBAT AND MC HALE'S NAVY—all going into their fourth season or longer.

The vitality of the network's programming is inherent in the large number of programs going into their second and third seasons: hit shows such as BEWITCHED, PEYTON PLACE, ADDAMS FAMILY; as well as proven successes as THE FUGITIVE, FARMER'S DAUGHTER, 12 O'CLOCK HIGH, PATTY DUKE, AMOS BURKE—SECRET

AGENT, SHINDIG, JIMMY DEAN, VOYAGE TO THE BOTTOM OF THE SEA, THE KING FAMILY and THE HOLLYWOOD PALACE—the latter three programs in color.

As a result, the network will enter the 1965–66 season this fall with a need for less new and untried programming than either of the other networks. These new shows are:

THE FBI, starring Efrem Zimbalist, Jr.—in color—based on actual case histories and produced with the full cooperation of the Federal Bureau of Investigation.

Edmond O'Brien in THE LONG HOT SUMMER—an hour-long continuing drama based on characters created by Nobel prize-winner William Faulkner.

[1591] HONEY WEST, a comedy/mystery series with Anne Francis as a distaff-side private detective, who is the pursued as often as she is the pursuer.

Burl Ives, as a multi-millionaire with frustrated social ambitions in a sparkling comedy called O.K. CRACKERBY.

Two young-at-heart situation comedies—GIDGET, in color, starring winsome, young Sally Field; and TAMMY, based on the hit movie and best-selling novels of the same name.

THE BIG VALLEY, a powerful family saga—also in color—with an impressive cast of new talent, backed by such veteran performers as Richard Long, Peter Breck and Barbara Stanwyck.

F TROOP, the comic misadventures of a unique cavalry unit, starring Forrest Tucker, Larry Storch and a newcomer, Ken Berry.

Two intensely dramatic half-hour series—THE LEGEND OF JESSE JAMES, portrayed by a young man destined for stardom, Chris Jones; and A MAN CALLED SHENANDOAH, starring the well-known young actor Robert Horton.

Plus another distinguished film series on THE SUNDAY NIGHT MOVIE, with such outstanding motion pictures, never seen before on television, as ANASTASIA, starring Ingrid Bergman and Yul Brynner, THE HUSTLER, starring Jackie Gleason and Paul Newman, THE THREE FACES OF EVE, featuring Joanne Woodward in her Academy Award-winning role, CAROUSEL and STATE FAIR.

For more than two years, our network has been preparing for the advent of color and its color schedule has been keeping pace with the rate of growth of homes equipped to receive color.

In order to be prepared for the full impact of color telecasting, as part of this development, we will be more than doubling the number of hours of color programming in the upcoming 1965–66 season over the previous season—and, for the first time, two programs will be telecast "live," in color. Close to one-third of the 1965–66 nighttime schedule will be in color and we intend to increase such programming as the situation warrants.

The confidence stimulated among advertisers by our 1965–66 nighttime schedule has been reflected in sales. Our sales are at the highest level they have ever been at this time of the year—well ahead and on a much firmer price basis than last year—and to the best of our knowledge, as fully sold out as our competitors.

In daytime television, while we are still not fully competitive, substantial progress has been made during the year both in audience levels and advertiser support. We have every reason to believe that this progress will continue and that the 1965–66 season should be our most successful one.

Our network has continued to offer outstanding sporting events. MAJOR LEAGUE CHAMPIONSHIP BASEBALL brings our national sport to a full national audience and hopefully can become one of the top sports franchises in television. THE AMERICAN SPORTSMAN—in color—has quickly established itself as a popular attraction and will be back again next year. Continued coverage of the entire sports spectrum is represented by ABC's year-round WIDE WORLD OF SPORTS, PRO BOWLERS TOUR, the NATIONAL BASKETBALL ASSOCIATION GAMES, UNITED STATES-RUSSIAN TRACK MEET, major golf tournaments and football bowl games. ABC, in association with Sports Illustrated Magazine, created and telecast the GRAND AWARD OF SPORTS program, honoring the outstanding athletes of the year—a program which will be an annual event and one [1592] which we feel will be of increasing interest and importance in the sports field.

A new era in international sports telecasting will be opened when ABC Television brings exclusively to American viewers,

"live" from Europe via the Early Bird Satellite, three great sports events. The events, which will be telecast to the United States for the first time "live" as they happen, are the Le Mans Grand Prix Auto Race from France on June 19th and 20th; the Irish Sweepstakes from Ireland on June 26th and the U.S.-Russian track meet from the Soviet Union at the end of July, subject to approval by the Soviet authorities.

As you may know, the Federal Communications Commission has recently announced a proposed rule which would regulate the interests of the networks in television programming which is scheduled at night. I would like to comment briefly on this matter.

The Commission's rule would prohibit the networks from offering a schedule in the evening in which more than 50% of such programming—or fourteen hours, whichever is greater—is produced by the networks or produced by others and licensed directly to the networks. The Commission's objective, as they see it, is to diversify the sources from which network programs are presently obtained, by requiring that advertisers and independent program producers provide the additional programming in which the networks would have absolutely no interest. Of the total of twenty-five hours of prime-time entertainment programming we now offer each week, advertisers supply us with a single half-hour. Under the proposed rule, advertisers would be responsible for supplying us 10½ additional hours of acceptable programming, a responsibility which we frankly doubt they will be willing, or for that matter, able to assume.

The Commission's rule would also prohibit the networks from engaging in any form of domestic syndication of programming and would limit their participation in foreign syndication to those programs which they themselves produce.

We are convinced that the Commission's rule is totally unrealistic and will not accomplish its stated objective. We and our affiliated stations as well as the other networks, intend to oppose [1593] this proposed rule with all the vigor possible. We hope to be successful in convincing the Commission that the proposed rule is unwise and impractical.

ABC NEWS

When I spoke to you last year about ABC News, we were just entering a Presidential political campaign. Complete and thorough coverage of the national political events in 1964 was the highlight of another year of progress for ABC News. The most extensive team of men and technical equipment ever assembled by ABC News told the story of the Republican and Democratic Conventions, the campaign and Election Night. The election coverage further enhanced the standing of ABC News as a professional and progressive force in television and radio reporting.

Although the campaigns and the election dominated the American scene in 1964, ABC News also covered events throughout the world with its expanded world-wide facilities. In February, 1965, Peter Jennings became the anchorman of the television network's early evening news program. We feel he has the potential talent to become a top news commentator. Although it is too early to be able to measure the national trends. we are pleased to note that this program is con- [1593] tinually gaining audience in key local markets, where national trends begin.

We are also very grateful for the recognition given to our news correspondents and programs as evidenced by eight outstanding awards in the past two months. These include a Peabody Award to White House correspondent, William Lawrence; Overseas Press Club Awards to John Scali for his role in the Cuban Crisis and to Bill Sheehan of our London Bureau for his reporting of the British Election, the George Polk Memorial Award to Edward P. Morgan for outstanding radio reporting; Thomas Alva Edison Foundation Awards to SAGA as the television program best portraying America and to DISCOVERY as the best children's program.

ABC News has continued its prime-time television program SCOPE and will schedule this program again in the 1965-66 season. SCOPE presents a wide variety of provocative subjects and has received much critical commendation. In the documentary field, the distinguished series SAGE OF WESTERN MAN, which was honored last year by a Peabody Award, will also

continue in 1965–66. A noteworthy example of this series was the recent program "I, LEONARDO," the story of daVinci. There will also be a series of one-hour evening specials, produced by John Secondari, Stephen Fleischman and David Wolper.

ABC News will also continue to present its regular programs of discussion, religion and children's education.

In radio, ABC News has maintained a strong, fully competitive position with the other networks. ABC Radio news carried the first broadcast of Premier Khrushchev's fall from power, a clear beat by ABC Moscow correspondent, Sam Jaffe. On-the-scene reports of domestic and foreign events were produced with the immediacy which radio can uniquely bring to its listeners.

ABC RADIO

In radio, the ABC Radio Network's vitality has attracted a great deal of favorable attention on the part of listeners and advertisers alike and its sales have continued to increase.

Syndication of radio programming has been offered as a service to its affiliates. Highlighting the network's activity in this field has been the [1595] "THEATRE 5" dramatic series and the Dr. Joyce Brothers Radio Show.

The strength and reputation of the network in news, public affairs, entertainment and sports programming, has also attracted quality stations. In the first four months of this year, fourteen such stations became affiliated with the network.

ABC OWNED STATIONS

The ABC Owned Television and Radio Stations have continued to serve their communities with distinction. Reflecting the greater public acceptance of their diversified programming and services, these stations achieved record revenues in 1964 and they have continued to show improvement to date this year. Our television stations are located in five of the seven largest markets and our radio stations are in six of the eight largest markets in the country.

The dedication of these stations to innovation in local programming and public and community service is attested by the recognition they have received.

For example, all of our owned stations editorialize regularly on vital local issues. For editorial excellence, station KABC–TV in Los Angeles won the National Headliners Award, given last year to our Detroit station. And recently, our New York radio station, WABC, won the respected Headliner Award and our Detroit radio station, WXYZ, the Sigma Delta Chi Bronze Medal.

Locally produced programs have ranged from exciting entertainment like the SWINGING WORLD OF SAMMY DAVIS, produced by WABC–TV in New York, to KGO–TV's cultural color presentation of the NUTCRACKER BALLET in San Francisco, to the provocative weekly discussion program, OFF THE CUFF, which only recently was the recipient of the coveted Peabody Award for our Chicago television station, WBKB.

In the news field, documentaries and specials involving newsmakers and subjects of vital community interest, such as the PINPOINT radio show on WLS in Chicago, not only reported the news but made news headlines. During the past year alone, the California Associated Press Association presented awards to both our Los Angeles and San Francisco radio stations for their outstanding documentary series.

And responding to local problems, our Pittsburgh radio station, KQV, for example, rallied the support of community and business leaders to sponsor the nation's first Career Exposition through which it acquainted its community with the career and job opportunities available to it. The success and overwhelming public response to the Exposition has spurred other cities across the country to sponsor similar shows.

ABC INTERNATIONAL

Television is becoming a truly international medium. Today, one out of every five people on earth can view television and the world set count is increasing beyond the rate of a million new sets each month. It is anticipated that satellites will make world-wide television more practical and will enhance the growth of international television. ABC International is pioneering in international television. The Worldvision group of

overseas television stations associated with ABC International has grown to include stations in 23 nations. Recently, ABC International sponsored the First Worldvision Symposium on the theme of "Television in The Space Age." Broadcasters from the Worldvision organization gathered in Washington, D.C. to participate in discussions with a distinguished group of government and industry specialists concerned with space communications, including Colonel John Glenn. This meeting, first of its kind, was attended by representatives from approximately twenty countries including a representative of the European Broadcasting Union, which was indicative of the international interest in this challenging subject. ABC International has established a leading position in international commercial television and continues to broaden its associations with television organizations in other countries.

ABC FILMS

The growth of television world-wide has also been evident in the operations of our film syndication subsidiary, ABC Films. Its sales of television programs to foreign stations were at a record level in 1964, with its programs being distributed in 65 countries. Domestic sales have also increased and its programs are being shown on over 350 television stations in the United States.

[1596] THEATRES

The improvement in our theatre business, which began in mid-1963, continued through 1964 and into the current year. The availability of quality motion pictures, as I have so often stated, is of prime importance to successful theatre business. This has been most evident by the recent excellent box-office results of such motion pictures as MARY POPPINS, GOLDFINGER, MY FAIR LADY and SOUND OF MUSIC, which have contributed significantly to the better results shown to date this year.

Important factors which are directly related to the motion picture theatre business are rising income and standard of living and population statistics. Industries which furnish leisure time activities tend to gain with rising income and standard of living.

The segment of the population under the age of thirty constitutes the major portion of our theatre patronage and census figures indicate that this group has been steadily rising and should continue to show a substantial increase over the next decade.

We are continuing to upgrade our theatre portfolio by acquiring new selected theatres, modernizing existing ones and disposing of marginal properties. Thus far, in 1965, ten marginal properties have been disposed of. One new theatre has opened and fourteen additional theatres are in various stages of construction. These new theatres are in suburban areas and most of them are located in shopping centers. In accordance with modern theatre trends, shopping center theatres provide ease and adequacy of parking together with the convenience of close proximity to potential patrons. They are being built to provide the most efficient type of operation. We expect that most of these theatres, now in construction, will be operating prior to the end of the year and an additional seventeen new theatres, almost all of which would also be located in growing suburban area shopping centers, are being actively processed.

OTHER ACTIVITIES

ABC-Paramount Records, one of the major recording companies, reported higher sales in 1964 compared with 1963. Since the first of this year, twelve single records and six albums placed in [1596] the nation's top one hundred chart, which is the generally recognized yardstick of success in the industry. New recordings by Soupy Sales and The Barry Sisters on the ABC-Paramount label; John Coltrane and Lionel Hampton on the Impulse jazz label; and Carol Channing on the Command label, attracted much attention. Westminster, the classical division, introduced a new budget-priced Music Guild series, which has met with gratifying public acceptance.

Prairie Farmer Publishing Company, which comprises three major midwest farm publications, has maintained high levels of circulation and these publications are rated among the top farm journals in the country. Our scenic attraction centers in

Florida, Weeki Wachee and Silver Springs, have continued to draw greater attendance and enjoy an excellent reputation as exciting tourist attractions.

Recognizing our growing physical needs, we expect to start moving into our new headquarters administrative building at 1330 Avenue of the Americas sometime towards the end of this year. We will also be providing for improved and enlarged broadcast operation facilities at our present location here on 66th Street and on the West Coast, which will include new color studios. Beyond our firm dedication to provide for the future growth of our present business, we are also giving careful and continued attention to other areas of interest which would be compatible with our operations and managerial skills.

This, in brief, is the current status of our operations. These results, to a very great degree, reflect the competence and dedication of the people working throughout our Company. I wish to express our appreciation to them as well as to our shareholders for their continued support and to our Board of Directors for its valued guidance and counsel. We feel that we have an excellent organization that is well equipped to meet the challenges of today and tomorrow.

Thank you.

[Federal Communications Commission Exhibit No. J-7; presented by Justice Department]

[1600] [American Broadcasting Companies, Inc., Second Quarterly Report, 1965]

[1601] Broadening our activities in the entertainment field, it was recently announced that MSG-ABC Productions, Inc., which is jointly owned by our Company and Madison Square Garden Corporation, acquired an 80% interest in the two American and two European productions of Holiday on Ice. The ice show, featuring many outstanding international skating performers, will premiere its 21st edition September 1st at the Madison Square Garden and will also appear in many other cities, both here and abroad. The purchase of Holiday on Ice is the initial venture by MSG-ABC Productions which was

formed to create, produce and present new and existing non-sports entertainment attractions.

Sincerely,

LEONARD H. GOLDENSON,
President.

[1602] JULY 21, 1965.

To Our Shareholders:

I am pleased to report that earnings from operations for the second quarter and for the first six months of this year were the highest for any such periods in the history of our Company.

Estimated earnings from operations for the second quarter rose to $3,488,000 or 76¢ a share from $2,568,000 or 56¢ a share in 1964, an increase of 36%. Net earnings, including capital gains, were $3,845,000 or 83¢ a share compared with $2,491,000 or 55¢ a share last year.

For the first six months, estimated earnings from operations rose to $7,665,000 or $1.66 a share from $5,433,000 or $1.19 a share, an increase of 41%. Net earnings, including capital gains, were $8,051,000 or $1.74 a share compared with $5,474,000 or $1.20 a share for the like period of 1964.

As was true in the first quarter, both major divisions, television and radio broadcasting and theatres, contributed to the improvement in earnings.

Television network sales for the upcoming 1965–66 season starting this Fall are at the highest level ever for this time of the year, substantially ahead and on a much firmer price basis than last year. This reflects the confidence by advertisers in the strongly competitive position of the network's nighttime schedule and its programming for the new season.

We are continuing to strengthen our theatre portfolio. Since the first of the year, two new theatres have opened, seventeen marginal properties have been divested and nineteen new theatres are in various stages of construction. These nineteen new theatres, together with an almost equal number of additional theatres that are being processed, will be located primarily in shopping centers in growing suburban areas.

	2d quarter		6 months	
	1965	1964	1965	1964
Earnings from operations before Federal income tax	$6,713,000	$5,236,000	$14,415,000	$10,870,000
Provision for Federal income tax	3,225,000	2,668,000	6,750,000	5,437,000
Earnings from operations	3,488,000	2,568,000	7,665,000	5,433,000
Capital gains, net, after applicable income tax	357,000	(77,000)	386,000	41,000
Net earnings	3,845,000	2,491,000	8,051,000	5,474,000
Per share: [1]				
Earnings from operations	.76	.56	1.66	1.19
Net earnings	.83	.55	1.74	1.20

[1] Earnings per share are based on the average number of shares outstanding.

[Federal Communications Commission Exhibit No. J-8; presented by Justice Department]

[1603] [American Broadcasting Companies, Inc., Third Quarterly Report, 1965]

[1604] October 29, 1965.

To Our Shareholders:

I am pleased to report that earnings from operations for the first nine months and third quarter were the highest for any such periods in the history of our Company.

For the first nine months, estimated earnings from operations rose to $11,015,000 or $2.38 a share, representing an increase of 37% over the $8,022,000 or $1.75 a share for the like period of 1964. Net earnings, including capital gains, were $11,290,000 or $2.44 a share compared with $8,093,000 or $1.77 a share last year.

For the third quarter, estimated earnings from operations rose to $3,350,000 or 72¢ a share, representing an increase of 29% over the $2,589,000 or 56¢ a share for the like period of 1964. Net earnings, including capital gains, were $3,239,000 or 70¢ a share compared with $2,619,000 or 57¢ a share last year.

Earnings from both major divisions of the Company, broadcasting and theatres, for the first nine months, were ahead of the like period of last year.

For the first time, the three television networks premiered their 1965–66 nighttime program schedules during the same

week. This simultaneous opening of the new season tended to concentrate viewer attention on the new programs more so than in the prior season when the other networks had staggered the starting dates of their schedules. Public acceptance of our ABC network programming has been good and, based on audience measurements to date, we expect our network to maintain a strong competitive position. It is also gratifying to note that advertising expenditures in the television industry are at an all-time high and indications are that they will continue to grow. The expansion of color television should also serve to stimulate this growth.

	3d quarter		9 months	
	1965	1964	1965	1964
Earnings from operations before Federal income tax	$6,150,000	$5,152,000	$20,565,000	$16,022,000
Provision for Federal income tax	2,800,000	2,563,000	9,550,000	8,000,000
Earnings from operations	3,350,000	2,589,000	11,015,000	8,022,000
Capital gains, net, after applicable income tax	(111,000)	30,000	275,000	71,000
Net earnings	3,239,000	2,619,000	11,290,000	8,093,000
Per share: [1]				
Earnings from operations	.72	.56	2.28	1.75
Net earnings	.70	.57	[illegible]	1.77

[1] Earnings per share are based on the average number of shares outstanding.

[1605] Last month our Company filed an application with the Federal Communications Commission for authorization to own and operate a communication satellite system for domestic transmission of television programs to our owned and affiliated stations throughout the country. We would also provide a channel, at no charge, for the transmission of programs to noncommercial educational stations. We and our scientific consultants, Hughes Aircraft Company, believe the proposal is scientifically and economically feasible and could effect a substantial savings over present transmission costs. Such a satellite would make practical, for the first time in television history, the twenty-four hour operation of a network and would enable live transmission to the new states of Hawaii and Alaska, the Commonwealth of Puerto Rico and the Virgin Islands in addition to the continental United States. It would also be of

importance to the public welfare and civil defense of the nation in the event of a national emergency.

Sincerely,

LEONARD H. GOLDENSON,
President.

[Federal Communications Commission Exhibit No. J–9; presented by Justice Department]

[1606] MEMORANDUM FOR CONSIDERATION BY BOARDS OF DIRECTORS OF INTERNATIONAL TELEPHONE AND TELEGRAPH CORPORATION AND AMERICAN BROADCASTING COMPANIES, INC.

The Managements of the two companies have agreed to recommend to their respective Boards of Directors the following proposal:

1. The transfer of the business and assets of American Broadcasting Companies, Inc. (ABC) to a new wholly-owned subsidiary of International Telephone and Telegraph Corporation (ITT) to be named American Broadcasting Companies, Inc., and the assumption by ITT of all liabilities of ABC.

2. The issuance by ITT of .5719 of a share of common stock and .5719 of a share of new convertible preferred stock for each share of ABC common stock. The new convertible preferred stock will have the following terms:

a. Par value $10.00 per share

b. Cumulative dividend of an amount equal to twice the dividend on ITT common stock, but not less than $2.40 per share

c. Convertible into ITT common on a share-for-share basis

d. Non-callable for ten years and thereafter callable at an initial redemption price of $150.00 per share, declining at a rate of $5.00 in each year to $100.00

e. Preference on voluntary or involuntary liquidation $50.00 per share

f. No sinking fund or purchase fund

g. Rank pari-passu with existing ITT preferred stock.

The proposal is subject to the execution by both companies of a mutually agreeable contract containing complete terms

and conditions relating to the proposal, which contract will be subject [1607] to the approval of the Boards of Directors of the respective companies.

[Federal Communications Commission Exhibit No. J–9; presented by Justice Department]

The agreement will contain, among other provisions, the following:

1. Anti-dilution provisions with respct to the ITT common stock initially issuable on the transaction and the ITT common stock issuable on conversion of the new convertible preferred stock.

2. The delivery of substitute stock options to holders of ABC options.

3. Satisfactory arrangements with respect to ABC's Retirement Plan, Group Insurance Plans, Key Employees Incentive Compensation Plan and other employee benefits.

4. Satisfactory arrangements with respect to employment contracts for key personnel.

5. The composition of the Board of Directors of ITT and the subsidiary acquiring the assets of ABC.

6. Provisions specifying the continued autonomous operations and management of ABC, by its present management, as a separate subsidiary of ITT, which arrangements will be verified by the respective managements and Boards of Directors at the appropriate time to the Federal Communications Commission.

7. Provisions with respect to obtaining tax rulings satisfactory to ABC.

8. Prompt review by ITT of the business and assets of ABC and prompt review by ABC of the business and assets of ITT, both reviews to be completed within a reasonably short period of time to be agreed upon.

9. Representations by each company as to its assets and earnings for the year 1965, as certified by their respective independent accounting firms.

[1608] 10. Consummation of the arrangements to be subject to the approval of the shareholders of each company, the Federal Communications Commission and other appropriate governmental agencies.

11. The closing date of the transaction to be no later than June 30, 1967, unless extended by mutual agreement of the parties.

12. All legal matters to be subject to the approval of counsel for the respective parties.

13. Each company to have the right to conduct its business in the normal manner pending consummation of the transaction.

AMERICAN BROADCASTING COMPANIES, INC.,
By LEONARD H. GOLDENSON.
INTERNATIONAL TELEPHONE AND TELEGRAPH CORPORATION,
By H. S. GENEEN.

[Federal Communications Commission Exhibit No. J-12; presented by Justice Department]

DECEMBER 7, 1965.

[1616] Purchase Price 400,000,000 85.50/share* 42½% premium over current ABC (60)

1. ITT preferred premium over ITT common	23%
2. ITT preferred market price	$82½
3a. Total ITT preferred shares issued for ABC	2,675,957
b. No. ITT preferred shares/ABC common	.5719
c. ITT preferred dollar value/ABC common	$47.19(55.2%)
4a. Total ITT common shares issued for ABC	2,675,957
b. No. ITT common shares/ABC common	.5719
c. ITT common dollar value/ABC common	$38.31(44.8%)
5a. Total ITT preferred & common shares issued for ABC	5,351,914
b. No. ITT preferred & common shares/ABC common	1.143
c. ITT purchase price preferred & common dollar value/ABC common	$85.50
6. 1966 ITT earnings (for existing ITT common)	$84,000,000
7. 1966 ABC earnings	$19,700,000
8. 1966 Consolidated earnings (for all ABC shares and existing ITT common)	$103,700,000
9. Preferred payout to ABC ($2.40×no. preferred shares)	$6,422,296
10. 1966 Consolidated earnings for common	$97,277,704
11. Total Consolidated common shares	22,675,957
12. Consolidated EPS	$4.29
13. Consolidated common Market Price (P/E=20)	$85.80
14. Consolidated Preferred Market Price (common MP & premium)	$105.53
15. ABC equivalent of Consolidated common/ABC share	$49.07
16. ABC equivalent of Consolidated preferred/ABC share	$60.35
17. Appreciated value of ABC common after merger	$109.42
18. Former value of ABC common	$60
19. ABC market price premium after merger	82.4%
20. ABC equivalent of Consolidated common dividend/ABC share	$.69
21. ABC equivalent of Consolidated preferred dividend/ABC share	$1.37
22. Appreciated dividend/ABC share after merger	$2.06
23. Former ABC common dividend	$1.60
24. ABC dividend premium after merger	28.8%
25. After merger yield in terms of current ABC MP ($60)	3.4%

*Based upon 4,679,065 shares outstanding as of 11/30/65 (85.4871)

[Federal Communications Commission Exhibit No. J-38; presented by Justice Department]

[1711] COMMUNITY ANTENNA TELEVISION

[1722] APPENDIX II

FCC REGULATION

The FCC has shown concern because it does not believe CATV comes under its jurisdiction unless the system uses micro-wave relays to bring remote television signals into the master antenna. There has been considerable discussion in the broadcasting industry recently, over the extent to which the FCC should be *required* to regulate CATV systems, and over the question of whether federal legislation was needed for this purpose.

The FCC recently instituted a rule making proceeding limited to the question of whether or not broadcasters should be allowed to own CATV, since many systems *are* currently owned by broadcasters. There seems little chance that the Commission would rule negatively on this question. It may, however, institute regulations affecting those systems which use micro-wave relays, requiring it to carry the signal of any local stations in its area as well as prohibiting the simultaneous duplication of programs of those local stations by programs brought in over the CATV system serving the same area.

ABC's position in this proceeding is that the question which the FCC has posed is too limited and that the real problems are as follows:

> We submit that the commission should first decide the ultimate place that the CATV service will have in television before setting the policies that will determine its ownership.[1] Except possibly in occasional instances,

[1] There is one area in which the FCC may already have enough information on which to act; we refer to the formulation of a policy which would preclude a television licensee who owns a CATV system in its market from originating programming or selling advertising on the CATV system.

which can be handled on case-to-case basis without the formulation of over-all rules and policies, there seem to be no multiple ownership, concentration or conflict problems created by the existing ownership, by television licensees, of CATV systems, which reach but a relatively small number of homes.

[1723] On the other hand, if CATV is allowed to expand to the large metropolitan areas, reaching tens of millions of homes, entirely different considerations will apply. If, as some anticipate, this development were to result in most, or a major part, of television being provided through CATV, the ownership policy which would be most in the public interest would be one, very likely, which would encourage, not discourage, broadcasters to enter the CATV field.

As in the case of pay television, it has been, and continues to be, ABC's position that the advent of any kind of system based on a direct charge to the public would be contrary to the public interest and a step in the wrong direction. But, if the final will of the people is to foster and expand a system of this type—whether it be pay television or CATV or a combination of both—ABC, as well as other broadcasters whose free television operations would be impaired by this development, should be welcomed to, not barred from, this new field."

"In sum, therefore, it is our view that the CATV course should first be charted before the Commission attempts to adopt rules either limiting the ownership of CATV systems *per se* or the common ownership of CATV systems and free television stations. If CATV operation is to be restricted to providing television service to small, isolated communities and sparsely settled areas beyond the normal range of television stations the multiple ownership, concentration and conflict considerations that will apply will be materially different than if these systems are allowed to expand to serve large metropolitan areas."

[1724] **APPENDIX III**

OTHER PENDING PROBLEMS

With respect to possible federal legislation, there appears to be general agreement that the FCC should regulate CATV systems both micro-wave and non-micro-wave. There are other major questions which need resolution by legislation or otherwise:

(1) Should CATV systems have the right to originate commercials?

(2) Should a CATV system have the right to originate programs (other than service information, such as weather, time, etc.)?

(3) Should CATV systems have the unrestricted right to bring *any* remote television signals into a market which is already served by several commercial channels?

At present, it is our best estimate that the first two of these questions will be ultimately answered in the negative.

There are, of course, additional questions concerning the business which are still unresolved such as: the degree to which talent and other unions will claim additional compensation as the result of programs usage on CATV systems and the extent to which copyright owners will be protected whose program material is utilized on CATV systems. The answers to these questions will have important financial consequences upon the ultimate development of CATV.

These same questions, however, have been pending for a number of years during which CATV has become a very substantial business, and it seems likely that a number will remain unsettled for the immediate future.

[1725] Despite the uncertainties, there are substantial reasons why ABC should enter CATV business at this time:

(1) As illustrated later in the presentation, CATV is now a reasonably stable business, with good financial return on investment and with growth prospects for the future.

(2) Only by being in the business can ABC gain first hand knowledge and help shape it in a direction beneficial to our interests in the regulatory proceedings and legislative hearings which may come in the near future.

(3) The recent action of the FCC in allocating frequencies for CATV micro-wave relays is generally regarded by industry observers as an indication that CATV is here to stay and is regarded as a permanent part of the broadcasting spectrum by the Commission.

[1729] APPENDIX VI

CRITERIA FOR ACQUISITION

We have set up certain tentative guidelines for initial consideration in considering our first acquisition or acquisitions in this area:

(a) At this time, we do not believe that we will be interested in acquiring in the United States systems located within the signal contours of our five owned and operated television stations, or

(b) Systems which rely primarily on carrying multiple non-network programs into areas which already receive three network services, or

(c) Systems which do not comply with the current FCC policies of carrying the local station on the system and of protecting the local station against program duplication, or

(d) Systems which rely for their success on carrying signals of distant stations through use of micro-wave facilities.

These criteria, of course, will be reviewed from time to time as the situation changes in this rapidly developing field and they should not be regarded as hard and fast rules due to the many unresolved questions concerning CATV and its place in the broadcasting field.

[Federal Communications Commission Exhibit No. J-65; presented by Justice Dept.]

[1933] MARCH 4, 1965.

Mr. Joe Morse;

Robert H. Kenmore—CATV

One of the main problems with this area is that both the FCC and Congress are sure to get involved in it this year with some rule making.

The tone of the attached article, which is selected at random from those appearing weekly on the subject in "Broadcasting Magazine", makes it clear that *nobody* knows what the upshot of this rule making will be.

Since the future of CATV will be effected by whatever comes out of Washington, it would seem to me that it would not hurt to make haste slowly until the position has been clarified.

[Federal Communications Commission Exhibit No. J–74; presented by Justice Department]

[2034] NOVEMBER 1, 1965.

Memorandum to: Mr. J. Guilfoyle.

Re CATV.

Jack: The CATV field is one of the most rapidly growing and, by many evidences, one of the most potentially prosperous for the future that we could look into.

Per your recent report we have committed, or will have spent by year end, $10 million in support of new operating franchises. The question now arises as to the future rate and amount of acquisition beyond this.

At the same time, there are a number of factors in this new industry, from an operating standpoint and from regulatory and other relations standpoints, particularly in relation to telephone companies, many of whom are our customers, which raise a number of important imponderables. Some of these may become also important risks to the recovery of the investments made in this field.

The work done to date by your division I think is outstanding in its ability to move fast and "nail down" the locations developed.

However, in order to have a full understanding of the nature of this entire business which we have been investing in, and its import on other areas of the company, it is desirable to have a good discussion among the top management group so we all have an understanding of the potential risks and, more importantly, of the day by day developments as they may affect the outlook for the field.

Since the subject, at this stage, does not lend itself to a simple writeup, I suggest we have a discussion meeting on Tuesday, November 2nd, starting at 2:30 p.m. Everyone should be able to get free in time to vote that evening if they need to.

I suggest the following people attend this discussion and copies of this memorandum will be sent to each.

The attached is for general "pre-thinking". This discussion will eliminate the necessity for any discussion in depth at the Business Review on Friday, as I think it would take too much time at that point.

H. S. GENEEN.

[2035] NOVEMBER 1, 1965.

Distribution—CATV:

Mr. H. Perry
Mr. J. Pospisil
Mr. R. Kenmore
Mr. Gerard (consultant)
Mr. E. Gerrity
Mr. R. Brittenham
Mr. H. Aibel
Mr. R. Chasen (additional if Mr. Chasen wishes to bring)
Mr. J. Hanway
Mr. H. Knortz
Mr. H. Busignies (or Mr. Cookson or representative of Technical Dept.)
Mr. J. Thompson
Mr. E. Peterson
Mr. P. Richards
Mr. R. Bennett

[2036] NOVEMBER 1, 1965.

CATV PRE-DISCUSSION NOTES FOR REVIEW

Our program, to date, as was agreed on earlier in the year, is to finance local franchise operators of good character and ability who are able to obtain franchises from the communities we are interested in and to do this on a promissory note basis which, after payment, leaves us with warrants which can be converted into operating control.

In general, the investment by the franchise operator himself will be minimal and our security, therefore, lies in the operating

franchise and its value. There is some salvage value in the equipment.

In addition, we would intend to manufacture and sell cable, amplifiers, head end equipment and possibly "slave type" TV sets, etc.

The industry is very new and many new problems develop from day to day. Some of the legal problems developing lie in these areas:

(a) Future copyright control. Suits have been filed by CBS and United Artists.

(b) FCC regulation of program material and practices. Recent FCC ruling aimed at "broadcasters" forbids showing in a local area for two weeks before and two weeks after a local VHF TV station carries the program. The CATV industry takes the position that they are not "broadcasters" and that this does not apply to them. This point has not been established, but would be a material problem if it were.

(c) A number of the public utilities, particularly telephone companies, have filed for rates and tariffs with the intention of investing in the equipment on their poles and renting same on a *non-exclusive basis* to CATV operators. It is said they wish to control the equipment from the head end to the connection in the house. It is stated that they intend to control the programs and other activities of their lessees. Whether, under these conditions, telephone companies could insist on program control or the giving up of any rights by a lessee which were not in conflict with by either State or Federal regulatory commissions is a question or, even if given up, whether they could be enforced as against such regulations.

(d) On the other hand, with "fair" agreements, renting of such equipment from the telephone companies may be a much more feasible and less expensive way for us to get into such franchises and allow us to move [2037] further with less investment, provided the rentals are based on the telephone companies' investment and are not contingent on our efforts or profitability.

> This raises the question as to what "kind of charge" the telephone companies would be allowed to make by regulatory authorities.

There are other questions which have to do with *"security"* of our franchises. The need to get exclusive franchises from one town or exclusive pole licenses, etc. Obviously, the opportunity to rent a system from telephone companies on a "non-exclusive basis" leaves additional competitive possibilities where exclusive franchises are not owned. This raises the question of size of commitment we will make on a non-exclusive basis or in relation to risk factors. We need to identify and review the risk factors in relation to the size of each investment.

Another factor of the *"security"* of our franchises may lie in the type of standard agreement we insist our franchise operator sign with each subscriber. Clauses which might be enforced as to cancellation for the purpose of entering a competing CATV network after having underwritten the erection of our network is typical of problems which might be involved here.

In another area lies the whole question of determining the stability of these franchises in terms of its *"service utility"* to the subscriber for example "fringe areas". better color. "more stations", "cheaper than erecting a TV antenna". i.e. "why will the subscriber stay?"

None of this has yet been checked out in our own operations but we have comparison from other areas. It is important to develop a basic format to check out *"service utility"* and, therefore, stability of the franchises *before* we get commited to them. In the same area a question should be raised as to how long franchise CATV customers can be expected to continue or renew their agreements under varying economic and reception conditions in the future. The development of future color sets by the manufacturer, for example, or increased powers of transmission by the broadcaster, have something to do with the length of the "service" utility of CATV.

There is considerable discussion of possible future pay TV, also closed circuit TV and use of CATV for local emanation of programs. Also, use of CATV networks for reading meters, use of CATV for burglar alarm systems and even possible use of CATV networks for two-way communications. Somewhere in

this area also are "picture phones" which are already part of telephone company plans and which could become "CATV" in itself. There are, therefore, many pending conflicts in these areas, the trend of which and regulations thereof must be watched.

[2038] The whole geographical question of urban vs. rural markets, what sections of the country, etc. become of importance, particularly in respect to possible future advertising or other closed circuit revenues.

We are investing $10 million and possibly more in non-proven operating franchises in a new industry with the expectation of returns four or five years from now. The effect of projected cash flows, earnings, etc. by year are a part of the effect of the problem on the company.

Also, the possibility of ownership of "transmission channels" from one CATV area to another (with FCC approval) and the possibility of creating a network linking whole areas of local CATV's franchises and possibly further marketing of the services of the group.

This brief memo is intended to indicate that while there are large potentials there are also possible high risks in such a new industry and to give some impression of the nature of the discussion on Tuesday.

H. S. GENEEN.

[Federal Communications Commission Exhibit No. J-75; presented by Justice Department]

[2039] FEDERAL ELECTRIC CORPORATION

To: R. Kemmare.

Enclosed is the December 3rd CATV Status Report.

ROBERT E. CHASEN.

[2040] CATV STATUS REPORT—DECEMBER 3, 1965

I. CURRENT STATUS

A. Southwest CATV Inc. (Brownsville, etc., Texas)

1. Meetings held with Southwest CATV Inc. and Jerrold concerning the Southwest CATV buy-out of Jerrold's franchise in McAllen, Texas. Offer previously made by Jerrold was

changed by Southwest and ITT to eliminate them completely for a cash buy-out. Their price of $450,000 appeared exorbitant and negotiations were broken off.

2. The City of McAllen has since awarded to Southwest CATV Inc. the right to pass through with their trunklines to service Mission and Pharr and a pole lease agreement with CP&L has been negotiated which will give us access to approximately one-half of McAllen without any further purchase of Jerrold's position. This is available if we decide on attempt to exploit McAllen.

3. Engineering is proceeding and construction is slated to commence January 1, 1965.

B. Kingston Cablevision (*Kingston, New York*)

The Accounting Department of FEC is presently examining the documents provided to them by the Kingston Cablevision CPA firm in New York. The analysis of the financial documents will be available on Wednesday, December 1, for FEC management to review. Preliminary estimate is negative.

C. Birmingham Suburbs (*Alabama TV Cable Corp.*)

This deal is now *dead* as the principals have notified us that they will sign with Stromberg-Carlson. They will receive 100% financing, keep control of their corporation (not subject to buy-out) and will *not* have to take S-C "turn-key."

Our rights are being reviewed to evaluate whether or not we wish to utilize any legal action. Cold hard fact is that S-C and others are now offering a more attractive financial package than that proffered by KCC-FEC.

[2041] *D. Northwest Cablevision* (*Seattle*)

The offers previously mentioned in the CATV Status Report of November 19 have been sorted out. The proposal by a broker was an offer by the *Seattle Times* to buy a small minority position in the company to give them access to a news channel which they would like to sponsor under their control. No firm offer has been forthcoming other than a proposal made by Mr. Harrison to myself of the following:

Present Stock Issued—400 shares.

Stock Warranty Held by ITT—600 shares.

Proposed New Issue—199 shares which will be sold to the *Seattle Times*, leaving ITT with a majority position

of 50.4%. The price mentioned for the 199 shares is in the neighborhood of $100,000 which could be used to retire part of the outstanding debt of the corporation.

The other offer has not been acted upon as it was for majority control.

The Seattle Times would be a potentially strong partner and consideration should be given to this offer to insure our future in the Seattle area.

E. Unicable, Inc. (Oswego, New York)

The pole lease agreement has been signed by both parties and access to the poles is expected momentarily.

F. Garden State Television Cable Corp. (Bridgeton, New Jersey)

The opening of the Bridgeton system was highly successful and good press coverage was achieved. The system opened with 550 subscribers on the line. Minor technical problems have been encountered, but are being resolved.

G. Television Transmission Company of North Carolina

Loan documents under preparation, but there are several unresolved legal problems. ITT cable will be procured for this installation.

II. OPPORTUNITIES UNDER STUDY

A. Richmond, Virginia

This opportunity is another brought up by Mr. J. Newmark of Television Transmission Company of North Carolina. No determination has been made as to how good this franchise opportunity is.

[2042] *B. Rhode Island International Cable Service Inc.*

The PUC Commissioner of Rhode Island was the guest of FEC on November 26 and 27 and attended the opening of the Garden State Television Cable Corp. The visit was highly successful and the Commissioner is adequately prepared to defend independent CATV interests in the Rhode Island area. He also feels he now has grounds to revoke the tariff granted to the Bell System for providing CATV service in Rhode Island.

C. Baton Rouge, Louisiana

Mr. James H. Gill, Jr. attended the opening of the Garden State Television Cable Corp. in Bridgeton, New Jersey, with the President of the Executive Council of Baton Rouge and other key officials. The group left satisfied with what they had seen.

D. H & B American Corp. in New Jersey

A letter has been received from H & B American notifying Garden State Television Cable Corp. that they have decided against selling their New Jersey systems after discussion by their Board of Directors.

E. Video-Link (Camden, New Jersey)

This group has received three franchises to date and expect to have more than thirty, including the City of Camden and Boston, Mass., within the next two or three months. The management of this group is being checked out to ascertain their character, reputation and integrity as businessmen. Report expected soon.

F. Philip Gibson—Consultant

1. The following are opportunities which Mr. Gibson has put together for ITT in each of the following cities. The Massachusetts and New Hampshire market seems to be ripe for CATV and Mr. Gibson has done a vigorous job in putting together a new approach for ITT in this area.

Franchise filed by:

Merrimac Valley Cablevision Corp., Lowell, Massachusetts, Mr. Walter Shannohan.

[2043]

Hampden-Hampshire Cablevision, South Hadley, Massachusetts, Mr. Michael Malone.

Worcester Cablevision Corp., 40 Court Street, Boston, Massachusetts.

South Shore Cablevision, 1503 Hancock Street, Quincy, Massachusetts.

Cablevision Corp. of New Bedford, The Lane Assonet, Massachusetts, Mr. Henry Nadeau.

Montachusetts Cable Vision, 993 Main Street, Fitchburg, Massachusetts, Mr. Lynmore Goodspeed.

Pilgrim Cablevision Corp., Main Street Extension, Plymouth, Massachusetts, Mr. Donald Govoni.

2. Another franchise that Mr. Gibson has also developed is Radio Station WARE of Massachusetts which holds the exclusive franchise for the towns of Warren, Brookfield, and Webster, Massachusetts. It has also filed for Clinton, Massachusetts. Meetings have been held with Mr. Allen W. Roberts, President, concerning ITT interest in said franchises; however, no offers have been made to them because of present "freeze" on CATV activities.

[*Federal Communications Commission* Exhibit No. J-76; presented by Justice Department]

[2044] FEDERAL ELECTRIC CORPORATION

To: Mr. R. Kenmore.

Enclosed is the CATV Status Report for December 10, 1965.

ROBERT E. CHASEN.

[2045] CATV STATUS REPORT—DECEMBER 10, 1965

I. SIGNIFICANT DEVELOPMENTS

A. FEC, working with J. H. Vollbrecht, has reached approximately 90% completion of its screening grid which is to be used as a standard in screening new opportunities. FEC is taking more time than anticipated to perfect grid but, since it is of paramount importance, believes such time is well invested.

B. The first meeting of the ITT-FEC CATV Committee was held in Mr. J. W. Guilfoyle's office, New York, on Friday, December 3, 1965. Assignments were made and minutes of this meeting will be distributed to persons who receive this report.

II. CURRENT STATUS

A. Kingston Cablevision, Kingston, New York

We have been advised that Kingston Cablevision has been

offered a firm commitment by ABC. Kingston asked FEC for $3 million which seemed excessively high. FEC declined.

B. Southwest CATV, Inc.

Progress proceeding in Brownsville, Texas, as scheduled. Construction program scheduled to start in Harlingen, Texas, the first of February 1966. A complete construction schedule for Southwest CATV, Inc. will be available in one week.

C. Unicable, Inc.

Stranding has started in Oswego and will proceed as quickly as the pole plant is made available.

III. OPPORTUNITIES UNDER STUDY

A. Richmond, Virginia

No progress has been made on this opportunity due to curtailment of our activity in the general area of CATV. Mr. J. Newmark has repeatedly contacted us requesting a decision.

[2046] *B. South Carolina*

Mr. Ken Hart, representing a local group in South Carolina, has been referred to us through Mr. J. Pospisil of KCC. Mr. Hart advises that his group is influential enough to produce exclusive franchises in the following towns in South Carolina: Beaufort, Anderson, Greenville, Charleston, Spartenburg.

Mr. Hart requests a decision from FEC regarding our interest and is willing to work on an 80%–20% split with FEC. He also requests letter of financial support, which we are unable to give at this time due to "freeze."

[Federal Communications Commission Exhibit No. J–77; presented by Justice Department]

[2047] FEDERAL ELECTRIC CORPORATION

DECEMBER 29, 1965.

Memorandum to: Addressees.
Subject: CATV Committee Meeting, 1/5/66, 10 a.m.

The CATV Committee meeting of January 5, 1966 will probably be held in one of the conference rooms at 320 Park.

You will be advised in advance of the specific location. The agenda for the meeting will be as follows:

I. Report of action items which were assigned as follows:

1. ITT Legal—H. Steinke

a. Set priority—legal problems and report new priority on studies b., c., d. below.

b. Assignment covering study of proposed rates and tariffs—PUC.

c. Assignment—Effect on CATV of FCC control.

d. Study on exclusivity of the franchises and state laws governing.

2. ITT Comptroller's Department—J. Berke

a. Assignment of closing loop on ITT financial responsibilities.

3. FEC—R. E. Chasen

a. Complete evaluation grid and make distribution to committee members after Mr. Vollbrecht's approval.

b. Determine distribution of reports.

[2048] II. Attached grid should be studied in advance of the meeting so that it may be prepared for final acceptance as an FEC guide line.

III. Discussion concerning ITT equipment usage in CATV market place.

IV. Discussion re offer by Seattle Times to buy minority interest in Northwest Cablevision, Seattle, Washington.

V. Discussion re assignments issued by Mr. Vollbrecht.

VI. Go/No Go recommendation relative to FEC coming out of "freeze" will be made by CATV committee.

VII. Discussion relative to ABC impact on ITT CATV mission.

ROBERT E. CHASEN.

Addressees: Messrs. J. Berke, J. Fitzpatrick, R. Kenmore, J. McDaniels, J. Morse, J. Vollbrecht, H. Steinke, J. Seath.

Information: Messrs. R. Bennett, R. Brittenham, H. Busignies, E. Gerrity, H. Knortz, H. Perry, P. Richards, J. Thompson.

[Federal Communications Commission Exhibit No. J–78; presented by Justice Department]

[2049] FEDERAL ELECTRIC CORPORATION

To: Mr. R. Kenmore.

Enclosed is the December 30, 1965 CATV Status Report.

ROBERT E. CHASEN.

[2050] CATV STATUS REPORT—DECEMBER 30, 1965

Due to the Holiday Season, we have consolidated two weeks into one report as of this date.

I. SIGNIFICANT DEVELOPMENTS

A. In a meeting with Mr. Angelo Milandra of Camden, New Jersey, and Mr. L. Tonti of the Garden State Parkway Commission, statements were made that the CATV industry had been betrayed by Governor Hughes and Mr. Hyland of the New Jersey State PUC.

From a political point of view, every effort is being made to prevent Mr. Hyland from accepting the tariff of the New Jersey Bell Telephone Company as proposed at the hearings which are slated to resume February 1, 1966.

B. The Screening Grid has been completed and distribution will be made this date.

II. CURRENT STATUS

A. Southwest CATV, Inc.

Program is moving according to schedule and meeting will be held with principal on January 6, 1966 to enure his acceptance to our schedule.

B. Northwest Cablevision

Negotiations are under way with the Seattle Times. They have made a firm offer of $100,000 for 199 shares of stock, which will be a new issue representing 16.4% of the total stock issued. This would leave ITT with a majority position of 50.4%. A further report will be made when negotiations are complete.

C. Unicable, Inc.

Construction is under way. Stranding has started in Oswego and will proceed as quickly as the pole plant is made available. Cable plant has been installed from the head-end site to the Unicable office in Oswego.

D. Garden State Television Cable Corp.

Final loan closing being held this date. All documents will be signed by close of business today. Legal problem in Northfield has been settled out of court with satisfactory insurance to ITT.

[2051] E. *Television Transmission Co. of North Carolina*

Strand mapping is complete, system design is under way and construction scheduled to start on or about February 1, 1966.

F. *Phonoscope*

FEC has prepared for KCC a new pro forma which has been sent to them. A new loan of $265,000 will be required to expand the system with KCC retaining recourse and FEC assisting KCC by accepting management responsibility for the system.

III. OPPORTUNITIES UNDER STUDY

A. *International Cablevision, Inc.* (Acquisition)

Acquisition study is presently under way

B. *Baton Rouge, Louisiana*

City Council of Baton Rouge has set date of January 12, 1966 for bids on the Baton Rouge franchise. FEC is performing an all-out effort to assist the Gill family in capturing this franchise.

NOTE: This is a two channel market with 67,000 potential subscribers.

C. *Rhode Island International Cable Service, Inc.*

Our principal in Rhode Island has had his application for the franchise in Cranston turned down, however, Mr. Phillip Gibson, our New England Consultant, is attempting to salvage the loss of this valuable franchise.

D. *Charleston, West Virginia*

We have received an opportunity to prepare a bid for the City of Charleston, West Virginia. The franchise is under study to determine whether or not it fits within the screening grid set forth by FEC/ITT Management.

[Federal Communications Commission Exhibit No. J–79; presented by Justice Department]

[2052] CATV Systems Basic Functional Responsibilities

ITT Headquarters

Decide on the need and feasibility of ITT owned and operated U. S. communications networks.

Coordinate responsibilities of separate companies in CATV work; and decide intercompany conflicts for best overall results.

FEC

Design and construct CATV systems:

1. At a profit.
2. Without credit exposure.

Own and operate CATV systems per plans agreed with ITT to assure:

1. No risk of principal invested
2. Rate of return on investment acceptable to ITT
3. Total investment at any one time within limits agreed to by ITT

KCC

Provide funds needed by FEC for FEC's investment in its own CATV systems.

Grant credit terms to FEC's customers (construction only) for CATV systems at no risk to FEC of loss on principal or income.

NA Telecom

Protect customer relationships with Indep. Tel. Industry.

Assist FEC in doing CATV work with/for Indep. Tel. Industry.

GENERAL RULES

A. KCC Loans for FEC's Investment in CATV System

1. KCC is not responsible for the validity of the credit granted to FEC (either on a direct or recourse basis).

2. FEC will give KCC a minimum of 90 days prior notice of the dollar requirements from KCC needed for their CATV systems. This procedure should be established on a quarterly

basis. Mutually agreeable interest rates will be negotiated on quarterly requirements.

3. Within the dollar requirements outlined by FEC and agreed to by KCC, KCC will grant loans to FEC and/or FEC's customer upon receipt by KCC of: (i) an FEC certificate signed by the President of FEC to the affect that the investment is within the agreed rules between FEC and ITT; (ii) a schedule outlining the loan requirements in detail which would enable KCC to draft the supporting legal document covering the loan.

4. FEC will furnish an authorized representative to preside in the drafting and negotiating of the legal documentation with FEC's customer.

5. In the event of any default in payment or any other problem, the responsibility will be FEC's.

[2053] 6. Any expenses incurred by KCC under this category will be recovered from FEC and/or FEC's customer.

B. KCC Loans to FEC's Customer (Construction Only)—(other than investment)

1. KCC is responsible for validity of credit granted—using normal credit standards.

2. KCC may not accept recourse against FEC or any other ITT company as justification for credit validity.

3. At KCC's request, FEC will furnish a feasibility report covering: (a) CATV potential of area; (b) technical performance of proposed system; (c) competence of licensee to operate system; (d) related technical, engineering, and operational matters; and an operating agreement covering these items will be entered into between FEC and KCC.

4. KCC is responsible for loan negotiating and future enforcement of the loan agreement with FEC's customer.

C. Transactions with Independent Telephone Companies

1. The financing of CATV systems may fall into either the A or B category.

2. Relationship with Tel. Co. customers is responsibility of NA Telcom; hence, FEC may not make any CATV plans or proposals in a territory served by an independent tel. co. without the understanding and concurrence of NA Telcom.

3. CATV system plans and proposals are the responsibility of FEC; hence, NA Telcom may not participate in any CATV work without understanding and concurrence of FEC.

D. Conflicts—Route of Appeal

1. Each company is expected to protect its own interest.

2. If protection of self interest results in conflict which two companies cannot resolve to their mutual satisfaction, then they must appeal to ITT to resolve the issue.

3. Appeal is to man appointed by HSG; and this man is responsible to HSG for the validity of decision he makes.

[2054] FEDERAL ELECTRIC CORPORATION

To: Mr. R. Kenmore.

Attached is the Status Report for period ending January 7, 1966.

ROBERT E. CHASEN.

[Federal Communications Commission Exhibit No. J-80; presented by Justice Department]

[2055] CATV STATUS REPORT—JANUARY 6, 1966

I. SIGNIFICANT DEVELOPMENTS

A. A meeting of the CATV Committee was held in New York on Wednesday, January 5, 1966, at 10:00 A.M. at which time a full discussion was held concerning the legal, financial and technical aspects of CATV.

B. The Screening Grid was revised and distribution will be made the first of next week.

II. CURRENT STATUS

A. Southwest CATV, Inc.

Program is moving according to schedule and construction will start a week from Monday in the Rio Grande Valley.

B. Northwest Cablevision

The Federal Electric Corporation has made the decision, subject to review by New York, that they will accept the *Seattle*

Times' offer to increase the stock issue by 199 shares. However, a new approach was made to FEC by Hearst Radio and Television and Newspapers, who own the *Post Intelligence* Newspaper in Seattle, who also wish to buy into the Seattle station. In view of the competitive aspects of the Hearst Company, it was decided to go along with the *Seattle Times,* which has a circulation of two (2) to one (1) over the *Post Intelligence.*

C. Unicable, Inc.

Construction is underway, signals are now into the office and a sales campaign will be started. The turnkey has been signed and a meeting will be held within the next ten (10) days to elect the director designated by FEC.

D. Garden State Television Cable Corp.

The final loan closing was held, all documents were signed, construction is proceeding in Northfield and construction will start in Vineland in approximately two (2) weeks.

[2056] *E. Television Transmission Co. of North Carolina*

The system engineering is ready and all agreements have been reached with the principals. A letter of intent to commence turnkey is in the hands of FEC and procurement of material has started.

F. Puerto Rico Cablevision—Certified Signal Corp.

System design has been completed and construction is slated to commence approximately February 1, 1966, with an initial portion of the system to be turned on April 30, 1966. The pole lease agreement which was to be signed with another firm by the Virgin Island Telephone Company has been halted and we are preparing to move into the Virgin Islands as well as study the possibilities in the Bahamas.

III. OPPORTUNITIES UNDER STUDY

There are no other opportunities under study with the exception of Phonoscope, which is a KCC investment requiring

278-719—67——31

additional investment for protection of the original investment. We are continuing to consolidate the positions we have in each of the six (6) other companies, including their new franchises which are growth opportunities.

[Federal Communications Commission Exhibit No. J-111; presented by Justice Department]

[2119] MEMORANDUM FOR THE RECORD

NOVEMBER 19, 1965.

Subject: Trip to Kingston, New York

A trip was made by Messrs. D. Lynch and F. Dimitroff on Thursday, November 18, 1965, to examine the property of Kingston Cablevision, Kingston, New York.

Discussions were held with three (3) of the principals (Walter Ests, Dr. Gailord and Mr. George Gailord) and a quick tour of the facilities was made.

Background

Kingston Cablevision was constructed in late 1958 and early 1959 to provide area residences the needed improvement in the reception of New York City TV channels, whose transmitters were 90 some air miles away. It was initially constructed as a low band (5 channel) system using Entron head end and distribution equipment. Pick up of off air using conventional cut yagis mounted on top of a 200+ foot steel tower located at the edge of town. Authority for constructing and operating the CATV service was granted by the Kingston Common Council to Kingston Cablevision, a New York corporation, for thirty (30) years. The poles of New York Bell Telephone and Central Hudson Power were rented on a year-to-year basis at a charge of $5.00 per joint use pole per year.

General

Kingston Cablevision currently services approximately 6500 customers in the City of Kingston and towns of Esopus, Ulster, Hurley, and Woodstock (the latter town providing the bulk of customers outside of the city limits). The total plant has been

almost fully converted to provide a maximum of twelve (12) TV channel service through off air pick up of all the New York City VHF TV channels (except Channel 13) at two (2) separate head end locations.

Technical

The total facilities really consists of two (2) separate systems. The first system, which services Kingston, uses Entron tube-type trunk amplifiers, aluminum trunk cable and Jerrold head end (Channel Commander), but still has strip braid distribution cable.

[2120] The off air pick up point is on a hill seven (7) miles from the main service area. Cut yagis are mounted on a large well constructed creosoted structure. The Channel 2 antenna is a very large high gain directional unit built by the Scientific North American Corp. Judging from the pictures observed at the head end and in the office, this unit surpasses conventional CATV Channel 2 antenna performance. The head and equipment shelter is a cinder block building approximately 12 x 16 feet in size.

Access to the site is gained over a road that was well maintained. Clearing snow off the last one-half (½) mile or so of access road is shared with Western Union, which maintains a microwave facility on the same hill.

The second system services the growing area of Woodstock, which lies North of the city, the Woodstock system is relatively new and consists of 40% Ameco and 60% Jerrold fully transistorized equipment, all aluminum trunk and distribution cable and conventional CATV head end tower, antennas and equipment (Jerrold Channel Commander).

MARKETING

The economy of Kingston is based principally on the payrolls of IBM. The IBM facilities in the city and areas are not of the production type, they are mostly "think facilities." The area reflects the current prosperity through new construction, renovation, urban renewal and the observed prosperity of people and things in the city.

FINANCIAL

An audited set of financial statements are being sent to FEC by Special Delivery from Kingston Cablevision's CPA firm in New York City.

OFFICE

The office facilities and equipment observed were acceptable, with the exception that there was no private office space and parking was difficult. Kingston Cablevision is moving to new quarters around the first of the year which will overcome these shortcomings. The system presently employs sixteen (16) people on the payroll. Modern procedures and methods were apparent, including IBM billing equipment.

[2121] CONCLUSION

The observations and comments made are the result of an initial and brief visit. Much of the information noted is unverified, but it is apparent that Kingston Cablevision is at least reasonably well constructed and operated.

It is assumed that if there is any future interest, management will make some specific assignments for future activity.

F. DIMITROFF,
CATV Division.

[Federal Communications Commission Exhibit No. J–118; presented by Justice Department]

[2131] FEDERAL ELECTRIC CORPORATION

JANUARY 4, 1966.

To: J. C. Black.
From: H. K. Dobra.
Subject: Vero Beach & Port Pierce Possibilities (International Cablevision Corp.).

Based on the Adler Report and conversations with Mr. Kenneth Holcombe (formerly of Entron, Inc., and who was present during the building of these systems), the following conclusions were arrived at:

Vero Beach, Installation Rate $20.00, Service Rate $5.50

1964 House Count	4, 000
1965 Subscribers	2, 400
Additional potential subscribers passed by system	1, 600
Annual income (service only) 2,400 subscribers	$158, 400
Additional potential income based on 50% of additional 1,600 subscribers through a more aggressive sales program (service only)	52, 800
Installation charges (income)	16, 000
No additional plant required.	

Adler estimated perhaps 10 miles of additional plant would pass another 800 homes recently built, and would also pass future building. If so, an investment of an additional $40,000 in plant would yield an additional annual income (service only) of $31,680 plus $9,600—in installation fees based on 60% saturation.

Fort Pierce, Installation Rate $20.00, Service Rate $5.50

1964 House Count	9, 400
1965 Subscribers	1, 600
Additional potential subscribers passed by system	1, 000
Annual income (service only) 1,600 subscribers	$105, 600
Additional annual income (service only) 1,000 subscribers through an aggressive sales program	66, 000
Installation charges (income)	20, 000
No additional plant required.	

Holmcombe guesstimates an additional 40 miles of plant would complete the wiring of Fort Pierce and cover the negro section which he believes is worthwhile and pass an additional 5,000 houses. This would require an additional investment of $160,000. and would yield approximately $99,000. in annual service fees and $30,000. in installation fees.

[2132] He also recommended consideration of an additional 5 miles of trunk and distribution to be carried in a southerly direction to cover White City with approximately 500 homes and permanent trailers, and then continue farther south to Port St. Lucie (a Mackle Bros. development) with 2 miles of trunk

and 7 miles of distribution to pass approximately 1,000 homes. If adopted, it would mean an additional investment of approximately $80,000. in plant (20 miles) and would yield at 60% saturation, $59,400. (service only) annual income plus $18,000. in installation charges.

A study is also recommended, since the existing plant is low band, to convert to all band equipment. Careful consideration should be given the cost factor versus resulting additional programming and improved quality of service from advances made in the state of the art in the industry.

H. K. DOBRA,
CATV Division.

[Federal Communications Commission Exhibit No. J–119; Presented by Justice Department]

[2134] CONTENTS

[2135-36]

EXHIBIT 1 AND 2

I.—Analysis of unfranchised and franchised metropolitan Ottawa market

City	No. of housing units	Street miles	Percent English speaking	Percent French speaking	Average income	Franchise holder	Franchise terms
A. Unfranchised municipalities:							
Ottawa	79,000	500	75	25	$6,969		
Eastview	7,000	26	63	37	5,820		
Rockcliffe Park	650		95	5	18,420		
Gatineau (Quebec)	3,500		20	80			
Total number of homes in unfranchised markets	90,150						
B. Franchised municipalities:							
Gloucester	5,000		10	10	6,181	Bytown Cable TV	25 years, no fee, nonexclusive.
Gatineau Pt. (Quebec)	2,200		10	90		David R. Graham	50 years, no fee, nonexclusive.
Hull East (Quebec)	800		5	95		David R. Graham	25 years, no fee, nonexclusive.
Hull (Quebec)	15,000		10	90		Inter-Provincial Cablevision.	10 years, no fee, nonexclusive.
Goulbourn	50		95	5		Rediffusion Ltd	Part of township, nonexclusive.
Mopean	11,000		95	5	7,050	Ottawa Cablevision	No fee, nonexclusive.

II.—Television signals available before and after CATV system is installed

	English			French		
Before CATV system is installed	CBOT	CBC	Ottawa	CBOFT	CBC	Ottawa.
	CJOH	CTV	Ottawa			
After CATV system is installed	CBOT	CBC	Ottawa	CBOFT	CBC	Ottawa.
	CJOH	CTU	Ottawa	CBTM	Independent	Montreal.
	CFCF	CTV	Montreal			
	WPTZ	NBC-ABC	Plattsburgh, N.Y.			
	WCNY	ABC-CBS	Watertown, N.Y.			
	CHOV	CBC	Pembroke			
	CKWS	CBC	Kingston			
	Local time-weather channel					

NOTE.—FM Radio Signals from Montreal and Kingston will also be provided on this CATV System.
Selected N.H.L. hockey and professional football games, now being shown exclusively on Montreal CATV would be brought to Ottawa.

[2137]

Synopsis of Report—ITT Trademark Will Be "ITT Service—CATV—Certified Signal"

Activities underway on broad scale. Numerous possibilities have been evaluated by FEC and, after careful examination, five commitments have been made: (1) Oswego, New York, (2) Seattle, Washington, (3) Bridgeton, Hammonton, and Vineland, New Jersey, (4) Northfield, New Jersey, and (5) eight suburbs of Birmingham, Alabama. Total loans committed $4,150,000.

Kellogg Credit on notice that additional funds will be required. Problem areas which are operational in nature appear soluble. Problem areas of legal nature are more difficult. They are:

(a) Restraint on original FEC Holding Company concept because of tax liability.

(b) Copyright Issue where owners of copyright program material claim CATV operators infringe their copyrights.

(c) Microwave Grant Issue where FCC regulations are pertinent and where a CATV system could not provide proper signal without microwave assistance.

(d) Pole Rental Issue where local telephone company may "freeze" on granting usage of their poles.

(e) State Regulation Issue wherein the State may attempt regulatory action over CATV.

Original FEC–CATV financial forecasts still appear valid. FEC–KCC loans could reach $10 million in 1965 and possibly minimum of $10 million more in the first six months of 1966. Cooperation between FEC and Kellogg Credit excellent with rapid service achieved. Discussions underway between FEC and KCC for mechanism to expedite small CATV acquisitions. No problems envisaged.

Financial projects looking rosy, however, several unknowns must be resolved as business develops. These are:

(a) Kellogg credit—FEC loans are risk finance loans with operators putting up little or minimum equity.

(b) This is business although electrical and electronic in nature, nevertheless, a new business for FEC.

(c) Individuals encountered, although carefully screened, constitute a new and different type of businessman eminating from a new industry.

(d) Financial unknowns inherent in new businesses may develop. FEC still feels undertaking more than worthwhile and used conservative [2138] estimates to cover contingencies so far as known facts are concerned. ITT should not, however, at this time use the financial projections included herein as the basis for anticipating future profitability and capital gains projections. Solutions to problems such as public utility rate regulation, copyrights, etc. should become more definite in the next 12 months.

[2139] I. General Overview

A full-scale CATV effort is now underway at FEC. At the present moment, innumerable opportunities are available for examination and evaluation. The FEC objective in the initial stages was to select a few "solid gold" opportunities and concentrate on this small area in order to assure a successful launch effort. It is proper to point out that the CATV business today has its full share of "con men," fakers, thieves, and unstable businessmen. In probing the field, we have met at least one of each of these types; however, on the other hand, we have also encountered energetic, knowledgeable CATV people—with a franchise or an idea. Those we certify as legitimate generally do not have much money. From the entire field we have tried to select the best equipped outside individuals to work with and the five commitments we have made seem to be with persons who have fulfilled the FEC–ITT requirements and criteria.

At the rate we are moving we could reach a total ITT loan involvement of ten millions of dollars before the end of 1965 and this could be extended by another ten million dollars during the first six months of 1966. As per our agreement, we will publish a quarterly report along the lines of this document. We will also issue biweekly and monthly reports which will be disseminated to approved ITT individuals.

The FEC effort is moving along rapidly and an examination

of the opportunities where we have made commitments will indicate the broad scope of our undertaking. The spectrum goes all the way from the very small towns of New Jersey to the great cities of Seattle, Washington, and Birmingham, Alabama. In our New Jersey commitment of $1,350,000, we achieved the right to acquire 80% ownership which preserves for ITT the privilege of inclusion into the ITT consolidated statements if desired. In two other commitments we have rights to 60% ownership and in the fifth a 50–50 split with a buy-back privilege to attain a possible 100% ownership.

In order to avoid corporate indigestion, the effort has been momentarily slowed down so that the original five commitments could get underway with maximum FEC surveillance. Our FEC personnel will shortly be freed to resume the intensified program of expansion which we have forecast.

From the overview vantage point, we are pleased with results obtained to date and believe that our original optimism concerning the CATV business was warranted. With continued ITT support, we will move on to new opportunities; however, FEC wishes to point out that ITT Headquarters and particularly Joe Pospisil of Kellogg Credit have been most helpful, understanding, and, of course, highly responsive to the needs of FEC.

[2140] II. Specific Transactions Completed to Date

A. *Oswego, New York.*—Unicable, Inc., Utica, New York.

The amount of this loan is $400,000 and the FEC equity ratio will be 60%.

B. *Seattle, Washington.*—Northwest Cablevision, Seattle, Washington.

This is a $700,000 loan and, here again, the FEC equity ratio will be 60%.

Of interest here is the fact that Bradford H. Harrison, the borrower and operator of this deal, is well known to Kellogg Credit. He formerly ran a small upstate New York telephone company which borrowed money from Kellogg Credit. Also, it is believed that our FEC presence in the State of Washington helped to place us in a position of serious contention for the multi-million dollar AEC-Hanford Support Services contract.

C. *Bridgeton, Hammonton, and Vineland, New Jersey.*—Garden State Television Cable Corporation, Bridgeton, New Jersey.

The amount of loan here is $1,100,000. However, we were able to negotiate an 80% equity ratio for FEC. This will enable ITT to consider future inclusion of this property into its consolidated statement.

Another advantage here is its location in New Jersey which is important during this initial phase of our operations because it will be possible for FEC to maintain close surveillance over the operators' activities.

D. *Northfield, New Jersey.*—Mainland Community Antenna Television Cable Service Inc.

The amount of loan here is $250,000. We were able to negotiate a complete buy-out of the principals and incorporate as a wholly owned subsidiary of Garden State Television Cable Corporation which will provide management services and also a spur from their business microwave network to service Northfield, New Jersey, as well as their own. The addition of this city places FEC smack in the middle of the Alpine four city complexes, yet unbuilt, and with the only system providing microwave and off-the-air pickup of the key Baltimore Station (Colts and Orioles.) We hope to use this key system to enable FEC to pick off at least two of the four Alpine franchises. The same technique used here will also be used to acquire Millville, Glassboro, Pitman, Cherry Hill Township, and hopefully, Wilmington, Delaware, using the same microwave system.

[2141] E. *Suburbs of Birmingham, Alabama.*—Alabama TV Cable Corporation.

The amount of loan here is $1,600,000. We were able to negotiate a 50–50 split with a buy-out provision five years from the date of the loan.

The towns of Lenoir, North Carolina, and Athens, Alabama, are included along with eight suburbs of Birmingham, although they are each set up as separate corporate entities.

The city of Birmingham has been set aside for the moment until the position of FEC in the franchise bidding can be evaluated. FEC had filed on its own for the Birmingham franchise.

[2142] III. Problem Areas

Entry of our company into this field of community antenna television is, of course, accompanied by a certain number of problems faced by the industry in general. In outline form, the primary problem areas are set out as follows:

A. HOLDNG COMPANY

Opinion of tax counsel was sought as to questions which might arise if equity interest of the ITT affiliate would spring from the future exercise of stock warrants to control a Holding Company, which in turn would hold the majority interest in a number of subsidiaries or operating companies. Counsel advised that borrowing subsidiaries might have interest deductions disallowed by the Internal Revenue Service and there would be an original issue discount imputed to the loans. The solution offered by counsel would be unworkable as a practical business matter because it would require that the Holding Company acquire at least 80% of the voting power of all classes of stock in each of the subsidiaries in order to file a consolidated return.

B. COPYRIGHT ISSUE

There are at present two pending cases in the Federal Court in New York City brought by United Artists and CBS respectively as owners of copyrighted film program material claiming that CATV operators infringe their copyrights and seeking monetary damages as well as complete injunctions against the future operations of the named CATV systems.

At the same time, the U.S. Registrar of Copyrights is submitting to Congress an overall revision to the U.S. copyright code, one draft of which attempts to extend the concept of infringement to CATV operations.

C. MICROWAVE GRANT ISSUE

A good number of CATV systems are unable to operate satisfactorily by picking up signals "off the air" and depend upon receiving signals from microwave common carriers, which are regulated by the Federal Communications Commission insofar as they extend service to CATV customers. FCC has

tions and also refrain from duplicating programs of these stations fifteen (15) days before and after the programs are shown. As a result, every FEC loan to CATV operators who have filed requests for microwave grants is being conditioned upon reservation of major portion of loan advances until the operator produces evidence of FCC approval thereon.

[2143] D. POLE RENTAL ISSUE

While telephone companies in nearly all states have pole rental agreements in effect whereby CATV operators are allowed to rent space on the poles, there are several difficulties faced in many individual cases:

(1) Telephone companies in particular States sometimes attempt a "freeze" on granting such agreements, delaying the CATV operator who is building a system. For example, New York Telephone Company recently so interfered with General Electric plans in Schenectady, New York. In addition, telephone companies nearly always refuse to allow more than one CATV operator on the poles, and this can cause trouble even before award of a city franchise where one applicant procures a telephone company pole rental agreement. The Bell System is offering a lease back plan in most cases to unsuccessful franchise applicants in the same city where a franchise has been awarded. In some recent cases this has forced the franchise holder to surrender his franchise and the Bell System is then in a position to control CATV in such a situation.

(2) Short Term termination features in these rental agreements put the CATV operator (at least theoretically) in the untenable position of being ordered "off the poles."

(3) Rental agreements sometimes destroy much of the potential of individual CATV systems by prohibiting extension into pay television, closed circuit television, etc.

E. STATE REGULATION ISSUE

Periodically, the various state legislatures have entertained bills to give state public utility commissions jurisdiction over CATV systems. Up until now these efforts have nearly always been unsuccessful. There is a tense situation in the State of

New Jersey where a bill is now proposed to place CATV under the Public Utilities Commission. FEC and other CATV operators are following these events with great interest.

The above areas are all well known to the industry group "National Community Antenna Association" which has been actively fighting the legislative and regulatory battle for some time.

[2144] IV. FINANCIAL COMMENT

The attached charts represent a conservative basis for evaluating the Financial Return to ITT utilizing the FEC Finance/Service Package.

Projected profit for 1965 takes into consideration the first six months costs prior to the achievement of any sales impact. In effect, ITT is entering the CATV business field recovering its full investment in Market Development Costs.

Chart I. Financial Review of Unicable, Inc.
Chart II. Financial Review of Northwest Cablevision, Inc.
Chart III. Financial Review of Garden State Television Cable Corporation
Chart IV. Financial Review of Mainland Community Antenna Television Cable Corporation
Chart V. Financial Review of Alabama TV Cable, Inc.
Chart VI. Consolidation of Five (5) Situations to Date
Chart VII. Progress Versus Prediction

[2145] V. BRIEF REVIEW OF CURRENT AND FUTURE ACTIVITIES AND OPPORTUNITIES

A. *Large Companies Now Involved in CATV—Who Expressed Interest in Service Support.*—See Item 1.

B. *Service/Finance—Situations Where Minority Equity Offered, But Declined.*—See Item 2.

C. *Service/Finance—Majority Equity—FEC.*—See Item 3.

D. *Holding Company Concept.*—See Item 4.

E. *Acquisitions and Franchises.*—There are situations where direct control would be in the hands of FEC. See Item 5.

F. *Summary of Pay TV Opportunities.*—See Item 6.

G. *Situations Investigated and Discarded.*—See Item 7.

SALES PROGRAM TO DATE

1. All leads submitted by KCC have been followed. Central Texas TV Cable Co. has been visited. A new lead, "King Community TV," being submitted by KCC will be contacted.

2. All leads sent by ITT Headquarters management have been followed, including one on a New Jersey situation which turned out to be a broker.

3. FEC preliminary acquisition evaluation study is underway on Subscription TV and Skiatron Electronics and Television Corporation.

[2146] 4. Three meetings were held with E. Fryman Group of Portsmouth, Ohio, which holds several interesting franchises. Negotiations were called off by Fryman after he was asked to prepare documents for Loan Committee on company by company basis.

5. Meeting was held June 21, 1965 with Kamen Group, Houston, Texas, to discuss CATV in Southwest. This situation which does *not* include Austin, Texas, is being closely followed.

6. Meetings with Rhode Island groups called off due to new State law regulating CATV.

7. A corporation has been formed by a key Louisiana Attorney and named "Certified Signal of Louisiana Inc." Franchise applications will be filed for all cities not as yet covered in Louisiana. In cases where other local applicants have filed and are due to receive franchises, recommendations will be made to them to join under the Certified Signal group. This is planned to be a 80%–20% split, with possible exception of Baton Rouge where it may have to be 70%–30%.

8. A corporation has been formed in New Jersey by a key New Jersey figure called "Certified Signal of New Jersey." This corporation will seek franchises in Essex, Bergen, Passaic, Union, Monmouth, and other counties. This is planned at an 80%–20% split in most cases.

9. A trademark has been copyrighted and all groups presently working with FEC will use it on their trucks, advertising matter, and signs:

Chart I

Unicable, Inc.
(CATV System—Oswego, New York)

Summary of net income after tax (ITT) and analysis of return on investment

[In thousands]

	1st year	2nd year	3rd year	4th year	5th year	6th year	7th year	8th year
Source of Income After Tax:								
Kellogg Credit—Interest .75%	$3	$3	$3	$3	$2	$2	$1	......
FEC—Turnkey Contract 2.00% (Net after CATV Div. Costs)	5	......	......	......	......	......	......	......
FEC—Value of Warrants	......	72	147	216	279	324	369	$396
Total Income After Tax—ITT	8	75	150	219	281	326	370	396
Investment: Kellogg Credit Loan (Cumulative Average)	......	370	372	367	350	327	293	263
Return on Investment (percent) (If warrants are exercised & CATV System is sold for $250.00 per subscriber)	......	20.4	40.3	59.7	80.3	99.7	126.3	150.6
Determining Value of Warrants:								
Number of Subscribers (in units)	1,280	2,240	2,752	3,200	3,520	3,520	3,520	3,520
Estimated Fair Market Value of Subscribers @ $250.00 each [1]	$320	$560	$688	$800	$880	$880	$880	$880
Less Loan Due KCC	300	400	360	320	260	160	60	......
Proceeds from Sale	......	160	328	480	620	720	820	$880
Cost to Exercise Warrants	......	1	1	1	1	1	1	1
Total Proceeds	......	161	329	481	621	721	821	881
60% of Total Proceeds (Less 25% capital gain)	......	73	148	217	280	325	370	397
Less Warrants	......	1	1	1	1	1	1	1
Profit or (Loss) on Exercising Warrants	......	72	147	216	279	324	369	396

[1] This is current minimum selling price per subscriber on recent CATV System Sales (Overall range is $250.00 to $550.00 with an average of $400.00 per subscriber.

[2148]

Chart II

Northwest Cablevision
(CATV System—Seattle, Washington)

Summary of net income after tax (ITT) and analysis of return on investment

[In thousands]

	1st Year (6 mo. period)	2nd Year	3rd Year	4th Year	5th Year	6th Year	7th Year	8th Year
Source of Income After Tax:								
Kellogg Credit—Interest .75%	$3	$5	$5	$5	$4	$3	$2	$1
FEC—Turnkey Contract 2.00% (Net after CATV Div Costs)	......	7	......	......	......	......	......	......
FEC—Value of Warrants	......	31	185	330	377	440	519	613
Total Income After Tax—ITT	3	43	190	335	381	443	521	614
Investment: Kellogg Credit Loan (Cumulative Average)	......	667	680	677	656	620	570	508
Return on Investment (percent) (If warrants are exercised & CATV System is sold for $250.00 per subscriber)	......	6.4	27.9	49.5	58.1	71.5	91.4	120.9
Determining Value of Warrants:								
Number of Subscribers (in units)	1,808	3,075	4,450	5,455	5,455	5,455	5,455	5,455
Estimated Fair Market Value of Subscribers @ $250.00 each [1]	$452	$769	$1,113	$1,364	$1,364	$1,364	$1,364	$1,364
Less—Loan Due KCC	600	700	700	630	525	385	210	......
Proceeds from Sale	......	69	413	734	839	979	1,154	1,364
Cost to Exercise Warrants	......	1	1	1	1	1	1	1
Total Proceeds	......	70	414	735	840	980	1,155	1,365
60% of Total Proceeds (Less 25% capital gain)	......	32	186	331	378	441	520	614
Less Warrants	......	1	1	1	1	1	1	1
Profit or (Loss) on Exercising Warrants	......	31	185	330	377	440	519	613

[1] This is current minimum selling price per subscriber on recent CATV System Sales (Overall range is $250.00 to $550.00 with an average of $400.00 per subscriber).

[2149] CHART III

GARDEN STATE TV CABLE CORPORATION
(CATV System—Bridgeton-Vineland-Hammonton, New Jersey)

Summary of net income after tax (ITT) and analysis of return on investment

[In thousands]

	1st year	2nd year	3rd year	4th year	5th year	6th year	7th year
Source of Income after Tax:							
Kellogg Credit—Interest .75%	$6	$8	$8	$7	$5	$3	$1
FEC—Turnkey Contract 2.00% (Net after CATV Div. Costs)	18	1	1	------	------	------	------
FEC—Value of Warrants	------	195	540	825	1,095	1,275	1,425
Total Income After Tax, ITT	24	204	549	831	1,100	1,278	1,426
Investment: Kellogg Credit Loan (Cumulative Average)	------	917	961	946	892	810	712
Return on Investment (percent). (If warrants are exercised & CATV System is sold for $250.00 per subscriber)	------	22.3	57.1	88.0	123.3	157.8	200.3
Determining Value of Warrants:							
Number of Subscribers (in units)	3,400	5,700	7,600	8,700	9,500	9,500	9,500
Estimated Fair Market Value of Subscribers @ $250.00 each [1]	$850	$1,425	$1,900	$2,175	$2,375	$2,375	$2,375
Less—Loan Due KCC	1,100	1,100	1,000	800	550	250	------
Proceeds from Sale	------	325	900	1,375	1,825	2,125	2,375
Cost to Exercise Warrants	------	1	1	1	1	1	1
Total Proceeds	------	326	901	1,376	1,826	2,126	2,376
80% of Total Proceeds (less 25% capital gain)	------	196	541	826	1,096	1,276	1,426
Less Warrants	------	1	1	1	1	1	1
Profit or (Loss) on Exercising Warrants	------	195	540	825	1,095	1,275	1,425

[1] This is current minimum selling price per subscriber on recent CATV System Sales (Overall range is $250.00 to $550.00 with an average of $400.00 per subscriber).

[2150]

Chart IV

Mainland Community Antenna TV Cable Service, Inc.
(CATV System—Northfield, New Jersey)
(A Proposed Subsidiary of Garden State TV Cable Corporation)

Summary of net income after tax (ITT) and analysis of return on investment

[In thousands]

	1st year	2nd year	3rd year	4th year	5th year	6th year	7th year	8th year
Source of Income After Tax:								
Kellogg Credit—Interest .75%	$1	$2	$2	$2	$1	$1	$1	......
FEC—Turnkey Contract 2.00% (Net after CATV Div. Costs)	4	......	......	......	......	......	......	......
FEC—Value of Warrants	......	25	76	114	151	201	237	273
Total Income After Tax—ITT	5	27	78	116	152	202	238	273
Investment: Kellogg Credit Loan (Cumulative Average)	......	209	219	218	211	200	185	165
Return on Investment (percent) (If warrants are exercised & CATV system is sold for $250.00 per subscriber)	......	12.9	35.6	53.2	72.0	101.0	128.7	164.0
Determining Value of Warrants:								
Number of Subscribers (in units)	780	1,170	1,430	1,560	1,690	1,820	1,820	1,820
Estimated Fair Market Value of Subscribers @ $250.00 each [1]	$195	$293	$358	$390	$423	$455	$455	$455
Less Loan Due KCC	250	250	230	200	170	120	.60	......
Proceeds from Sale	......	43	128	190	253	335	395	455
Cost to Exercise Warrants	......	1	1	1	1	1	1	1
Total Proceeds	......	44	129	191	254	336	396	456
60% of Total Proceeds (less 25% capital gain)	......	26	77	115	152	202	238	274
Less Warrants	......	1	1	1	1	1	1	1
Profit or (Loss) on Exercising Warrants	......	25	76	114	151	201	237	273

[1] This is current minimum selling price per subscriber on recent CATV System Sales (Overall range is $250.00 to $550.00 with an average of $400.00 per subscriber.)

[2151]

CHART V

ALABAMA TV CABLE CORP.

(CATV Systems—Birmingham, Alabama suburbs, Athens, Alabama, and Lenoir, North Carolina)

Summary of net income after tax (ITT) and analysis of return on investment

[In thousands]

	First year	Second year	Third year	Fourth year	Fifth year	Sixth year	Seventh year	Eighth year
Source of Income After Tax:								
Kellogg Credit—Interest (.75%)	$8	$13	$12	$11	$9	$6	$3	$1
Federal Electric—Turnkey Contract (2.00%)	26	1	......	......	......	......	......	......
Federal Electric—Value of Warrants	......	154	446	708	965	1,086	1,205	1,243
Total Income After Tax—ITT	34	168	458	719	974	1,092	1,208	1,244
Investment: Kellogg Credit Loan (Cumulative Average)	......	1,275	1,367	1,250	1,269	1,154	1,026	904
Return on Investment (percent) (If warrants are exercised and CATV System is sold for $250.00 per subscriber)	......	13.2	33.5	57.3	76.8	94.7	117.7	137.6
Determining Value of Warrants:								
Number of Subscribers (in units)	5,200	8,260	10,580	12,170	13,280	13,280	13,280	13,280
Estimated Fair Market Value of Subscribers @ $250.00 each [1]	$1,300	$2,065	$2,645	$3,043	$3,320	$3,320	$3,320	$3,320
Less Loan Due KCC	1,650	1,650	1,450	1,150	740	420	100	......
Proceeds From Sale	......	415	1,195	1,893	2,580	2,900	3,220	3,320
Cost to Exercise Warrants	......	3	3	3	3	3	3	3
Total Proceeds	......	418	1,198	1,896	2,583	2,903	3,223	3,323
50% of Total Proceeds (Less 25% Capital Gain)	......	157	449	711	968	1,089	1,208	1,246
Less Warrants	......	3	3	3	3	3	3	3
Profit or (Loss) on Exercising Warrants	......	154	446	708	965	1,086	1,205	1,243

[1] This is Current Minimum Selling Price Per Subscriber on Recent CATV System Sales (Overall Range is $250.00 to $550.00 with an Average of $400.00 Per Subscriber).

[2152]

Chart VI

CATV Systems—Consolidated

Summary of net income after tax (ITT) and analysis of return on investment

[In thousands]

	First year	Second year	Third year	Fourth year	Fifth year	Sixth year	Seventh year	Eighth year
Source of Income After Tax:								
Kellogg Credit—Interest (.75%)	$21	$31	$30	$20	$21	$15	$8	$2
Federal Electric—Turnkey Contract (2.00%) (Net After CATV Division Costs)	53	9	1	......	......	......	......	......
Federal Electric—Value of Warrants	......	477	1,394	2,193	2,867	3,326	3,755	3,948
Total Income After Tax—ITT	74	517	1,425	2,221	2,888	3,341	3,763	3,950
Investment: Kellogg Credit Loan (Cumulative Average)	......	3,370	3,493	3,396	3,165	2,860	2,513	2,199
Return on Investment (percent) (If warrants are exercised and CATV System is sold for $250.00 per subscriber)	......	15.3	40.8	65.4	91.2	116.8	149.7	179.6
Determining Value of Warrants:								
Number of Subscribers (in units)	12,466	20,445	26,812	31,085	33,445	33,575	33,575	33,575
Estimated Fair Market Value of Subscribers at $250.00 each [1]	$3,117	$5,112	$6,704	$7,772	$8,362	$8,394	$8,394	$8,394
Less Loan Due KCC	3,960	4,100	3,740	3,100	2,245	1,335	430	......
Proceeds From Sale	......	1,012	2,964	4,672	6,117	7,059	7,964	8,394
Cost to Exercise Warrants	......	7	7	7	7	7	7	7
Total Proceeds	......	1,019	2,971	4,679	6,124	7,066	7,971	8,401
Portion of Total Proceeds Applicable to FEC Warrants (After 25% Capital Gains Tax)	......	484	1,401	2,200	2,874	3,333	3,762	3,957
Less Warrants	......	7	7	7	7	7	7	7
Profit or (Loss) on Exercising Warrants	......	477	1,394	2,193	2,867	3,326	3,755	3,943

[1] This is Current Minimum Selling Price Per Subscriber on Recent CATV System Sales (Overall Range is $250.00 to $550.00 with an Average of $400.00 Per Subscriber).

[2153] CHART VII

Federal Electric Corporation, CATV Division—Progress status highlights as compared to original CATV projections submitted to ITT headquarters

	CATV activity to date, June 30, 1965	CATV projections on finance/service only for year 1965
CATV Operating Companies:		
Potential Number of Subscribers on System in Five Years	33,575	33,600
Loans From Kellogg Credit Corporation (Total Requirement)	$4,100,000	$3,360,000
Loan Dollars Per Subscriber:		
For Plant Installation	[1] $100	$60
For Working Capital	20	40
Total Loan Dollars Per Subscriber	120	100
Federal Electric Corporation:		
Potential Sales Income in 1965:		
For Plant Installation	2,100,000	2,016,000
For Maintenance Service	....	248,000
Potential Sales Income in 1966 on 1965 Input Only: For Plant Installation	1,000,000	....
Estimated profit in 1965:		
Pre-Tax Profit (Before Div. Exp.)	210,000	226,000
CATV Divisional Expenses	133,000	[2]
Pre-Tax Profit	77,000	[2]
Net Profit After Taxes	40,000	[2]

[1] Actual Plant Costs Include a Microwave System in South Jersey and a Special Transmission (Long Cable) System in Alabama at an Approximate Cost of $150,000 Each. No Provision was Made in the CATV Projection for this Type of Equipment.

[2] Not Projected.

[2154]

1. Service business

Company	Type service	Remarks	Value	Date expected
General Electric Corporation, Schenectady, N.Y	(1) Head End Equipment	(1) Pole Line Agreement has been issued; however, protest was entered on microwave extension by Albany station. FEC still No. 1 position for award.	$27,000	Held up—Following.
	(2) 50-300 miles of distribution system. Turnkey installation.	(2) Same as above	$200,000 to $1,200,000.	Held up—Following.
Newhouse Broadcasting Company.	Various Areas	FEC now competing with them. Doubtful chance of working for them.	Unknown	Following.
Kaiser Aerospace & Electronics Corp.	Various Areas	Discussions underway to work with them to provide service tasks to their turnkey contracts. Leads will be given to us by Kaiser as they develop, provided that the situations develop, we use their equipment.	Unknown	Meeting was held in Dallas. Continuing in constant contact with them.
Entron	Various Areas	The President of Entron, Mr. McGeehan, has been in contact with FEC and intends to visit FEC in the near future to work out areas of mutual interest.		Mr. Whitney of Entron gave FEC the leads which resulted in acquisition of Garden State complex and Mainland franchise (Northfield, N.J.).

[2155]

2. Service/finance minority equity FEC

Company	Type service	Remarks	Value	Date expected
Alabama TV Cable Corporation, Roanoke, Alabama, S.P. McDonald, Jr.	Finance/Service	Final agreement reached for 100% financing—turnkey FEC for all Birmingham suburbs—50% FEC equity—5 year buy-out—9 franchises involved. Subsequent agreement to be reached on Birmingham proper at later date.	$1,000,000	Loan Documents in preparation.
Multichannel TV of Dalton, Georgia.	Finance/Service	See Holding Company		
Full Channel TV, Inc. Rhode Island.	Finance/Service	Meeting was held for opening of discussions. Have franchise for East Providence, Rhode Island.	$500,000	New law in Rhode Island will hold up.
Lancia Group of Rhode Island.	Finance/Service	First meeting has been held—will need help in presentations to Town Councils, etc. Money not criteria. Limited Financing required— *Applying Towns* — *TV Households* Kent — 35,400 Newport — 22,000 Providence — 173,000 Bristol — 11,400 Washington — 16,400	$1,000,000	Excellent possibility to capture. Sen. Pastore is back of this group. However, new law in R.I. will hold this up for some time.
Central Texas—TV Cable Co., Corsicana, Texas.	Finance/Service	Five franchises in Texas. Done extensive business with KCC—Texas Tel & Tel Co. Equity position offered is limiting factor to FEC.	$700,000	Meeting was held in Texas. Equity offered not adequate.

[2166]

2. Service/finance minority equity FEC—Continued

Company	Type service	Remarks	Value	Date expected
Vermilion Community TV Cable Co., Abbeville, Louisiana, Nr. Lyle Turnley.	Service/Finance	FEC has been apprised that 49% ITT equity is possible. However, we are pursuing majority situations first. We will suggest later buy out.	$222,000	Discussions have been held with L. Turnley and will continue.
TV Cable Co. of Space City, Alamogordo, N. Mex.	Service/Finance	Contact was made, met principals in Houston, Texas. Customer agreed to 40% FEC equity, which was not enough for ITT ultimate control.	$250,000	Following.
Alpine Geophysical	Service/Finance	Alpine has gone with Jerrold who was given control. However, they are having difficulties due to the fact that one of the cities is Northfield, N.J., which is on their route. FEC has negotiated majority control of Northfield and may thus out-maneuver competition.	$1,000,000	Early July.
Cable Video, Bay Springs, Miss.	Finance	Discussions have been held that have reopened this for FEC in a majority position. Meeting with them will take place week of July 2, 80-20%.	$500,000	Following.

[2157]

3. *Finance/service—Majority equity FEC*

NEW PROSPECTS

Company	Type service	Remarks	Value	Date expected
King Community TV, Houston, Texas, Robert V. King, President.	....	Has been received from ITT Kellogg Credit. Will be contacted to acquaint him with details of our plan.	$487,500	Early July.
Skiatron Electronics & Television Corp.	Finance/Service (CATV)	Have offered FEC controlling portion for Queens, if we provide financial support. No answer will be given to them until we convince ourselves that we cannot receive franchises for N.Y. City ourselves. Meeting held with N.Y. Board of Estimate Tuesday, June 28, 1965. Filing will be postponed until after N.Y. election.	$10,000,000	Following.
Cablevision of Montreal	Finance/Service	Principals will be introduced by Dick Hemingway of International Television Inc. for possible pay TV CATV system. System has 82,000 subscribers.	$5,000,000	Following. Meeting with principals on July 15.
Certified Signal of Louisiana	Finance/Service	Meeting was held with Mr. Gill to organize approach in Louisiana.	Unknown	Late July.
Certified Signal of New Jersey	Finance/Service	Meeting was held to organize approach to main N.J. areas.	Unknown	September or October.
[2158] Clark County Cable Company, Las Vegas, Nevada.	Turnkey Installation	80% equity position possible for ITT. No franchise has been awarded. License to operate CATV business has been awarded to this firm. Present intent of this firm is to finance the Central Tel. Co. and allow them to build the system. They will be given an agreement to operate for 10 years and an option for 10 more. Requires further study. Has high FEC priority.	$2,500,000	Visit was made June 4. Second visit for business discussions with Central Tel. Co. week of July 31.

3. *Finance/service—Majority equity FEC*—Continued

NEW PROSPECTS—continued

Company	Type service	Remarks	Value	Date expected
Pioneer Cablevision Inc., 177 N. Upper St., Lexington, Ky.	Finance/Service	Visit by Ken Hart was made to FEC 7 May 1965. This does not seem to have good prospects. Unimpressed with principal.	$1,000,000	7 May 1965 first meeting. Following.
Goodnow Plan—Closed Circuit TV, Puerto Rico.	Finance/Service	Has excellent potential. Goodnow and Ricotelco have been advised to deal with FEC. Urgent requirement for visit to hotels San Juan area as recommended by Ricotelco. The Entron plan has been received for Ricotelco and is under study by Engineering Department. Visit scheduled for week of July 9 has been coordinated with Ricotelco. Consultant will be engaged for this study. Pay TV.	$650,000	Mr. Goodnow will be called to participate in visit to Puerto Rico.

[2159]

4. *Holding company*

Company	Type service	Remarks	Value	Date expected
W. Adler Holding Company Concept.	(1) Acquisition; (2) Finance/Service; (3) Holding Company; (4) Consultation Services.	Mr. Adler desires to put together a master Holding Company using 5 top men in CATV as regional Holding Companies. Plan to be presented to FEC Management week of July 10, 1965.	$50,000,000	July 10, plan due.

Note: Holding Company activities placed in "hold" status until Davis-Polk opinion can be fully studied.

[2160]

5. Acquisitions and franchises

Company	Type service	Remarks	Value	Date expected
FEC of Birmingham, Alabama.	CATV Service.	Filed, may be combined with Alabama TV Cable Co. as team effort and FEC will be majority leader.	$3,000,000.	Following.
Island of New Providence, Bahamas.	CATV Service.	Trip will be made to file application as soon as time permits.	$2,000,000.	Following.
Alice and Henderson, Texas.	CATV Service.	Acquisition—Call was made to Kamen of Houston, Texas. Meeting set for July 6 in J. Pospisil's Office.		Under discussion. July 6.
Skiatron Electronics & Television Corp.	Total Pay TV.	This would put ITT in Pay TV. High risks being evaluated. June meeting was held to discuss potential with Pat Weaver. To be deferred until more fiscal information is forthcoming.	$20,000,000.	Late June.
Subscription TV Corp.	Pay TV.			
Midwest Microwave & CATV—Peru, Illinois (Same Owners).	Microwave Common Carrier CATV System.	Trip made week of June 12 to inspect and evaluate system. Report in preparation; consultant report due June 30.	$2,000,000 (total).	Late June.
Television International.	Pay TV.	Have offered us situation in Montreal tying Pay TV and CATV into 82,000 homes. Could be promising. Will meet with principals July 15 meeting.	Unknown.	July 15.

[2161] 6. SUMMARY OF PAY TV OPPORTUNITIES

It is a generally accepted rule in the CATV industry that the way into Pay TV is by having a transmission grid of CATV available when the day comes. However, it is also necessary to have the equipment in the CATV systems designed to allow the transition with a minimum of cost and a minimum of fanfare.

Secondly, there are plans afoot, and in some areas already underway, to have a Common Carrier Microwave System cover the entire United States, independent of the Bell System, to interconnect the grid of CATV cable systems.

It appears that Pay TV is not as far away from being a reality than three to five years. The opportunities for ITT are threefold: (1) Equipment; (2) CATV Grid; (3) Pay TV itself.

1. Equipment

Federal Electric Corporation is working within ITT to develop the following products for the market:

a. Cable-Aluminum Sheath Coaxial Cable.

b. Digitor—could be a key in eliminating the need for a second set of wires to read off meters, trigger device to activate receiver and, perhaps, as a basis to develop a new system in competition to the costly Lear Siegler System, Zenith Phonevision System, and the Paramount Telemeter System.

c. Connectors—ITT Cannon.

2. *CATV Grid*

As Federal Electric expands into the CATV field, the systems are being designed to minimize the cost of conversion into Pay TV. One of the advantages of the Finance/Service Package is the responsibility being held in FEC itself to construct the new program, where it can design into ITT products.

3. *Pay TV*

a. Montreal, Canada. A conference is being held with the principals concerned with Pay TV in Montreal on July 15. Montreal has some six companies who are to be joined together to form the basis for a Pay TV experiment. Federal Electric Corporation has been asked to [2162] participate in this

and may be able to acquire the key CATV properties in Montreal where the signal will be generated.

b. San Juan, Puerto Rico. Here, ITT is in an excellent position to incorporate Pay TV, CATV, and Hotel information TV. A visit is planned to Puerto Rico with Bill Goodnow, who came to ITT with the plan and a consultant, Charles Clemmens. The visit is slated on July 9 to July 14 and a subsequent report will be generated on this subject.

[2163] *7. Situations investigated and discarded*

Company	Area	Reason
Central Texas TV Cable Co.	Central Texas	Towns too small and equity offered by principals not enough to satisfy FEC requirements.
TV Cable Co. of Space City.	Alamogordo, N. Mex.	Equity offered by principals not enough to satisfy FEC requirements.
Alpine Cable Television Inc.	Southwest New Jersey	Equity offered by principals not enough to satisfy FEC requirements.
Pioneer Cablevision, Lexington, Ky.	Suburbs of Lexington, Ky.	Principals dealing with FEC did not appear to be good ITT Management material.
TV Selection Corp., Meridian, Miss.	Meridian, Miss., and several other Mississippi franchises.	Equity offered by principals not enough to satisfy FEC requirements.
Multichannel Cable Co., Portsmouth, Ohio:		
(a) Acquisition of CATV system, Portsmouth, Ohio	Ohio	FEC was not prepared to go into acquisition programs. Study and visit was made after system was sold to Reeves Broadcasting Co. for 150,000 shares of Reeves' stock plus approximately $450,000 of debt retirement.
(b) Reeves Broadcasting Co., New York City	Varied	Mr. Fryman whose group now holds 150,000 shares of Reeves' stock tried to put ITT and Reeves together—evidently to give his 10% holding of Reeves' stock leverage. Day after first visit of Mr. Drayton Hastie to FEC, stock of Reeves moved upwards sharply. There is a feeling at FEC that it was probably a move by insiders either at Reeves or Multichannel.
[2164] Holding company concept exploration with Mr. Fryman spokesman for Multichannel.	Varied Midwest	Multichannel has been overextending themselves in the acquisition of franchises. We offered to explore situation by situation, on an Operating Company Loan concept rather than a Holding Company concept. As this was unacceptable to the Multichannel group, negotiations were broken off.
Bytown Cable TV Co., Ltd., Ottawa, Canada.	Ottawa, Canada	Offers 25% equity to ITT which was not adequate for Canadian involvement.

[Federal Communications Commission exhibit No. J-120; presented by Justice Department]

2165

October 5, 1965

MEMORANDUM TO: Mr. H. S. Geneen

Attached for your information are copies of the initial report on ITT's activities in CATV and a September 17 report which updates their activities.

J. W. Guilfoyle

Enclosure
cc: Mr. R. Brittenham
Dr. H. Busignies
Mr. H. Perry
Mr. F. Barnes
Mr. H. Knortz

J120

2166

CATV STATUS REPORT - SUPPLEMENT

17 September 1965

The following reflects an updating of the report dated 25 June 1965. It includes the following:

1. Specific progress made on each of the transactions completed to date.

2. New transactions.

3. Situations which do not appear of prime value to ITT.

CATV STATUS REPORT – SUPPLEMENT

Specific progress made on each of the transactions completed to date.

1. Oswego, New York – Unicable, Inc., New York

   A. Ground broken 17 September 1965 for tower, road and building.

   B. All equipment has been ordered, including the following:

      1. Viking cable

      2. Kaiser Amplifiers

      3. Stainless Towers

      4. Jerrold Head End

   C. Contract will be let by 25 September 1965 to set 1,500 poles as New York Bell Telephone has refused access to their poles. NOTE: Unicable has a basis of suit for Restraint of Trade.

   D. Completion date of system estimated at 30 November 1965.

   E. Pre-sold subscriptions – 600.

Projection? Cap costs,

Cost? Where is it?

2. Seattle, Washington – Northwest Cablevision, Seattle, Washington

   A. Principal is presently operating system.

   B. Loan closing date – 25 September 1965.

   C. Franchise has been transferred and plant can be expanded to pass in front of 50,000 homes.

   D. Application has been made for microwave service bringing the Los Angeles Independent Channels.

   E. Loan will probably be expanded from $700,000 to $2,000,000.

   F. Subscriber count has gone from 1,150 to 1,700 since negotiations were started.

Projection? do

CATV STATUS REPORT - SUPPLEMENT

Specific progress made on each of the transactions completed to date (Cont'd.)

3. Bridgeton, Hammonton and Vineland, New Jersey - Garden State Television Cable Corp., Bridgeton, New Jersey

A. Bridgeton - Two thirds built, part of system on air - 350 subscribers on line. Schedule completion date set for 15 October 1965.

B. Hammonton - Presently under construction by Entron who held original contract with principals. Scheduled completion date 30 November 1965.

C. Vineland - Held up by failure of New Jersey Bell Telephone Co. to issue pole lease agreement for part of city. Law Firm of Shanley & Fisher has been engaged to have Mr. Hyland of the N.J. PUC notify Bell to issue agreement. Tower has been completed and building started. Requisitions for equipments have been made and building for head end equipment is under construction.

D. Microwave equipment scheduled to be installed 27 September 1965 with on-the-air date scheduled 11 October 1965.

E. Principal has applied in fifteen other South Jersey communities for franchises.

F. Negotiations for Millville, New Jersey, have been underway, however, present owners of franchise are holding out until Bell Telephone Tariff is approved to compare deal offered.

Note

4. Northfield, New Jersey - Mainland Community Antenna Television Cable Service Inc., New Jersey

Principal is tied up in Litigation for Breach of Contract with Alpine Cablevision Inc. and Jerrold Corp. Loan was committed but FEC will not take action to finalize funds until litigation is settled.

5. Suburbs of Birmingham, Alabama - Alabama TV Cable Corp.

After FEC had a signed agreement with the principals, the Alabama TV Cable Corp. received a deal from Stromberg Carlson Co. which offered them a lower interest rate and asked for no equity. Alabama principals

CATV STATUS REPORT - SUPPLEMENT

Specific progress made on each of the transactions completed to date (Cont'd.)

objected to KCC interest rate and buy-back provision. It is not considered advisable to pressure them by legal action to go through with their commitment. It seems to be a question of "Southern Honor" versus the dollar sign - and it looks like the dollar sign won. We do not plan to force them to go through with their promise as it would be a negative situation since we would have reluctant cooperation.

New Transactions - Ready for Loan Committee Action

1. Southwest CATV Inc. - Houston, Texas

Projections
do
Eng. Survey

An agreement has been reached with Southwest CATV, Inc. for KCC to finance and FEC to build a CATV system for the entire Southwest Rio Grande Valley. This complex could be the largest CATV system in the United States.

ITT equity - 55% - 45% to principals, with buy-back provision of up to 80% of stock.

Franchise presently includes:

- Brownsville
- McAllen
- Edinberg
- Pharr
- Harlingen
- San Benito

Engineering survey presently underway and due to competition, FEC, when loan is approved, must start building immediately.

Loan required $1.5 to $3.0 million.

2. Phonoscope - Houston, Texas - NASA Site

Projections

Phonoscope is a corporation that is building a CATV system in Nassau Bay, the community across the road from NASA. The franchise extends to Clear Lake City and this system has not as yet been started.

Kellogg Credit Corp. has a $117,000 loan to them which represented 80% of their financial acquirement, holding a 10% minority position in the corporation.

CATV STATUS REPORT - SUPPLEMENT

New Transactions - Ready for Loan Committee Action (Cont'd.)

Phonoscope has suffered from poor management and poor technical planning.

FEC has negotiated with them for a 80% equity position for which re-financing will be necessary. For this, Federal will rebuild the system, build Clear Lake City and take total responsibility for the promotion, management and solicitation of franchises or agreements with other developers in the area. System has excellent potential. Blocked out sporting events from Houston are picked up from Galveston.

3. Puerto Rico Cablevision - Certified Signal Corp., San Juan, Puerto Rico

Puerto Rico Cablevision - Certified Signal Corp. was formed by principals formerly associated with the Hearst Broadcasting Corp. - WISN TV Milwaukee, Wisconsin. Corporation was formed to build a:

Good

a. Hotel Information CATV System servicing the 4,500 hotel rooms in San Juan.

b. Extend system to include approximately 6,000 apartments and homes in the Condado Beach- "Gold Coast" area. This will be a CATV System, utilizing other programming to bring English language programs to this community, where now only a limited amount is available.

c. This system, when expanded, will have a good potential in other areas of the Island, especially the Fajardo area.

d. Will serve as a basis for Pay TV if and when TV transmission by satellite becomes a reality.

e. Puerto Rico Telephone Company is fully cooperative.

CATV STATUS REPORT - SUPPLEMENT

New Transactions - Ready for Loan Committee Action (Cont'd.)

4. Certified Signal of Illinois, Peru, Illinois

A plan has been generated to have a company formed in Illinois which will acquire the assets of Television Transmission Company and Midwest Microwave of Peru, Illinois.

Projection Co.

The complex presently has 5300 subscribers on the line and three customers on the microwave. Television Transmission Company has just been awarded the franchise for Freeport, Illinois, an ITT Bell and Gosset location. FEC assisted in the franchise application with KCC making the financial loan commitment.

Negotiations have started and the aim of FEC is to have (1) 80% warranties in the new company, (2) a turnkey contract for the expansion of the microwave into at least 16 new customer areas and CATV turnkey contracts for construction of the Freeport system, and (3) any others resulting from the applications presently being submitted by Television Transmission Company. Total loan requirements will be a minimum of $2,600,000 to a maximum of $4,000,000.

5. Rhode Island International Cable Service, Inc.

Projection Co.

Arrangements have been made for FEC to finance and construct all CATV systems which this group will acquire in the Providence area. A franchise has already been awarded in North Providence.

Applications are pending in Pawtucket, Cranston, Providence and Johnston. ITT Wire and Cable have been helpful with the local authorities.

Equity split will be 80 - 20%. The Providence area is a prime area for a CATV system.

CATV STATUS REPORT - SUPPLEMENT

⊗ what about situations lost

like put weekly reports

Situations Rejected - No Apparent Value to ITT

A. General Electric Corp. still deadlocked in Schenectady, N. Y.

B. Newhouse Broadcasting Corp. in competition with ITT.

C. Ention - now tied up with Stromberg Carlson.

D. Multichannel TV of Dalton - Georgia - terms were unacceptable.

E. Full channel TV Inc. of Rhode Island - negative check-out.

F. Central Texas TV Cable Co., Corsicana, Texas not enough equity available for ITT interest.

G. Vermilion Community TV Cable Co., Abbeville, Louisiana. Majority control for ITT unacceptable to principals.

H. TV Cable Co. of Space City, Alamorgordo, New Mexico. Not enough equity available for ITT interest.

I. Alpine Geophysical, Alpine, New Jersey - they have made a deal for 50 - 50 split with Jerrold Corp., Philadelphia, Pennsylvania.

J. Cable Video, Bay Springs, Mississippi - FEC did not feel that Cable Video had adequate management strength.

K. King Community TV, Houston, Texas - Principal has also been entering into "lease back" deals with the Bell System. FEC did not want to enter into this kind of situation.

L. Clark County Cable Co., Las Vegas, Nevada - Decision made not to enter any "lease back" deals with Telephone Companies at this time. Why?

M. Pioneer Cablevision, Lexington, Kentucky - Principals not acceptable as managers.

⊗ Policy?

[FEDERAL COMMUNICATIONS COMMISSION EXHIBIT No. J-121; PRESENTED BY JUSTICE DEPARTMENT]

NOVEMBER 1, 1965.

[2173] *Memorandum to: Mr. J. Guilfoyle.*

Re, CATV.

JACK:

The CATV field is one of the most rapidly growing and, by many evidences, one of the most potentially prosperous for the future that we could look into.

Per your recent report we have committed, or will have spent by year end, $10 million in support of new operating franchises. The question now arises as to the future rate and amount of acquisition beyond this.

At the same time, there are a number of factors in this new industry, from an operating standpoint and from regulatory and other relations standpoints, particularly in relation to telephone companies, many of whom are our customers, which raise a number of important imponderables. Some of these may become also important risks to the recovery of the investments made in this field.

The work done to date by your division I think is outstanding in its ability to move fast and "nail down" the locations developed.

However, in order to have a full understanding of the nature of this entire business which we have been investing in, and its import on other areas of the company, it is desirable to have a good discussion among the top management group so we all have an understanding of the potential risks and, more importantly, of the day by day developments as they may affect the outlook for the field.

Since the subject, at this stage, does not lend itself to a simple writeup, I suggest we have a discussion meeting on Tuesday, November 2nd, starting at 2:30 p.m. Everyone should be able to get free in time to vote that evening if they need to.

I suggest the following people attend this discussion and copies of this memorandum will be sent to each.

The attached is for general "pre-thinking". This discussion will eliminate the necessity for any discussion in depth at the Business Review on Friday, as I think it would take too much time at that point.

H. S. Geneen.

[2174] November 1, 1965.

Distribution—CATV:

Mr. H. Perry
Mr. J. Pospisil
Mr. R. Kenmore
Mr. Girard (consultant)
Mr. E. Gerrity
Mr. R. Brittenham
Mr. H. Aibel
Mr. R. Chasen (additional if Mr. Chasen wishes to bring)
Mr. J. Hanway
Mr. H. Knortz
Mr. H. Busignies (or Mr. Cookson or representative of Technical Dept.)
Mr. J. Thompson
Mr. E. Peterson
Mr. P. Richards
Mr. R. Bennett

[2175] November 1, 1965.

CATV Pre-Discussion Notes for Review

Our program, to date, as was agreed on earlier in the year, is to finance local franchise operators of good character and ability who are able to obtain franchises from the communities we are interested in and to do this on a promissory note basis which, after payment, leaves us with warrants which can be converted into operating control.

In general, the investment by the franchise operator himself will be minimal and our security, therefore, lies in the operating

franchise and its value. There is some salvage value in the equipment.

In addition, we would intend to manufacture and sell cable, amplifiers, head end equipment and possibly "slave type" TV sets, etc.

The industry is very new and many new problems develop from day to day. Some of the legal problems developing lie in these areas:

(a) Future copyright control. Suits have been filed by CBS and United Artists.

(b) FCC regulation of program material and practices. Recent FCC ruling aimed at "broadcasters" forbids showing in a local area for two weeks before and two weeks after a local VHF TV station carries the program. The CATV industry takes the position that they are not "broadcasters" and that this does not apply to them. This point has not been established, but would be a material problem if it were.

(c) A number of the public utilities, particularly telephone companies, have filed for rates and tariffs with the intention of investing in the equipment on their poles and renting same on a *non-exclusive basis* to CATV operators. It is said they wish to control the equipment from the head end to the connection in the house. It is stated that they intend to control the programs and other activities of their lessees. Whether, under these conditions, telephone companies could insist on program control or the giving up of any rights by a lessee which were not in conflict with by either State or Federal regulatory commissions is a question or, even if given up, whether they could be enforced as against such regulations.

(d) On the other hand, with "fair" agreements, renting of such equipment from the telephone companies may be a much more feasible and less expensive way for us to get into such franchises and allow us to move [2176] further with less investment, provided the rentals are based on the telephone companies' investment and are not contingent

on our efforts or profitability. This raises the question as to what "kind of charge" the telephone companies would be allowed to make by regulatory authorities.

There are other questions which have to do with *"security"* of our franchises. The need to get exclusive franchises from one town or exclusive pole licenses, etc. Obviously, the opportunity to rent a system from telephone companies on a "non-exclusive basis" leaves additional competitive possibilities where exclusive franchises are not owned. This raises the question of size of commitment we will make on a non-exclusive basis or in relation to risk factors. We need to identify and review the risk factors in relation to the size of each investment.

Another factor of the *"security"* of our franchises may lie in the type of standard agreement we insist our franchise operator sign with each subscriber. Clauses which might be enforced as to cancellation for the purpose of entering a competing CATV network after having underwritten the erection of our network is typical of problems which might be involved here.

In another area lies the whole question of determining the stability of these franchises in terms of its *"service utility"* to the subscriber for example "fringe areas", better color, "more stations", "cheaper than erecting a TV antenna", i.e., "why will the subscriber stay?"

None of this has yet been checked out in our own operations but we have comparison from other areas. It is important to develop a basic format to check out *"service utility"* and, therefore, stability of the franchises *before* we get commited to them. In the same area a question should be raised as to how long franchise CATV customers can be expected to continue or renew their agreements under varying economic and reception conditions in the future. The development of future color sets by the manufacturer, for example, or increased powers of transmission by the broadcaster, have something to do with the length of the "service" utility of CATV.

There is considerable discussion of possible future pay TV, also closed circuit TV and use of CATV for local emanation of

programs. Also, use of CATV networks for reading meters, use of CATV for burglar alarm systems and even possible use of CATV networks for two-way communications. Somewhere in this area also are "picture phones" which are already part of telephone company plans and which could become "CATV" in itself. There are, therefore, many pending conflicts in these areas, the trend of which and regulations thereof must be watched.

[2177] The whole geographical question of urban vs. rural markets, what sections of the country, etc. become of importance, particularly in respect to possible future advertising or other closed circuit revenues.

We are investing $10 million and possibly more in non-proven operating franchises in a new industry with the expectation of returns four or five years from now. The effect of projected cash flows, earnings, etc. by year are a part of the effect of the problem on the company.

Also, the possibility of ownership of "transmission channels" from one CATV area to another (with FCC approval) and the possibility of creating a network linking whole areas of local CATV's franchises and possibly further marketing of the services of the group.

This brief memo is intended to indicate that while there are large potentials there are also possible high risks in such a new industry and to give some impression of the nature of the discussion on Tuesday.

H. S. Geneen.

[2178] [Federal Communications Commission, Exhibit No. J-122; presented by Justice Department]

November 2, 1965.

Memorandum To: Mr. H. S. Geneen.
Subject: CATV.

In response to your memorandum of October 27 which raised a series of questions and thoughts on CATV, Bob Chasen has prepared for my signature the attached memorandum of reply.

It is structured to restate your question with the answer directly below.

J. W. GUILFOYLE.

[2179] 1. I note Skiatron is involved in both Queens and New York. I see figures of $10 to $20 million respectively. I also notice some discussions with Mr. Pat Weaver. I would like to discuss this whole area with you for two reasons: first, it is a major investment area, and, second, I have had some approaches through a political area as to our doing business with Skiatron. Also, I would like to know what Mr. Weaver's interest in this program is.

Skiatron Electronics and TV Company, 60 East 56th Street, New York, New York, is owned primarily by its founder and President, Arthur Levey. The attached draft of Skiatron's proposal to ITT is self-explanatory. As far as is known, Skiatron manufactures no products but holds several alleged valuable patents and copyrights. Basically, their prime asset is the patent to manufacture a "black box" which operates from pulse signals which can be carried simultaneously with the video signal over a coaxial cable. Skiatron has also filed for a franchise which is in the Rego Park, Forest Hills section of Queens. Skiatron's black box was utilized by Subscription TV, which is Pat Weaver's company, in its effort to implement Pay-TV in California. The Skiatron black box was manufactured by Lier-Siegler, Inc. under a special license agreement. The intentions of Skiatron are in the attached memorandum. It is our understanding that Pat Weaver would like ITT to invest in or buy Subscription TV Inc. Since Pay TV is suspended in California because of litigation, Mr. Weaver, as an interim measure, would like ITT to take over for consideration Pay TV–CATV grids in the Los Angeles and San Francisco areas. Mr. Chasen, Mr. Levey and Mr. Weaver have been in frequent touch with each other and a meeting is scheduled amongst them on 11/10 next. It is suggested that before ITT Headquarters meetings are held with these individuals, that the preliminary meeting on 11/10/65 be held.

2. The financial projections attached are in terms of a mythical $250 per subscriber for which we intend to sell the company.

Reference is made to a "mythical" 250 per subscriber for systems or parts thereof, sold by ITT. The price or value per subscriber is only a term used for simplicity or convenience. Actually, the present value of systems is based upon the following formula:

[2180]

a. For evaluating a franchise (where a system has not yet been built) an accepted current practice is to multiply the total of the first four quarters of positive cash flow by seven.

b. For a mature operating system the current practice is to multiply cash flow [1] by a factor of from six (6) to nine (9) depending on several conditions including growth left.

c. During the first two (2) or three (3) years a CATV is operating, it is difficult to establish a formula for determining market value. No standard formula has been evolved by CATV brokers.

3. Since under (2) if we do not not exercise the warrants on the assumption that we are not in control, there is no question of consolidating either profits or losses. From the standpoint of the collateral and risk involved, we have to have not only projections of subscribers, *but also operating expenses and net profit by year*. It is unrealistic to talk about an investment of $10 to $20 million based on future sales values as the attached memo does, without any reference to the underlying earnings, since this is the *only* security.

As shown in the FEC presentation, individual systems operate normally for the first two (2) years with repayment of interest on the KCC loan only. In most cases, the first and sec-

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[1] Cash flow definition used is net profit before interest, depreciation and taxes.

ond years are at an operating loss which is anticipated and covered in the loan application. In the third and subsequent years, income from the system is utilized to repay interest on the KCC loan with the balance being applied to repayment of the principal amount thus building equity in the system. A normal full payout occurs in the seventh year with subsequent years at a true profit.

4. Do we have any commitments on the equipment that we will use, or can we use our own manufacturer.

A few commitments have been made where it has been necessary in the interest of making a specific deal (i.e., Entron was guaranteed equipment sales in Garden State Television Cable Inc. because they originally brought the principals to us). However, we have made it clear to all in the equipment/cable/components business that we have no interest in entering into exclusive arrangements and that wherever possible we will use ITT manufactured equipment.

[2181] 5. What is the story in Louisiana in general, because I think this is one where we would have some strength.

Through contacts in ITT Public Relations, FEC was brought in contact with the law firm of Foil, Gill & Beckner. We negotiated an agreement whereby we would provide them with general support in seeking CATV franchises, marketing research, assist in making franchise applications, city council presentations, etc., as well as arm them with KCC loan commitment letters. In return, we would participate on an 80/20 majority basis (except in Baton Rouge, La., where it would be 70/30 ITT), receive all turnkey business and manage the systems. To date, we have provided full support but no specific deals have yet materialized.

6. Who is Mr. Adler in the proposed $50 million program?

Mr. M. William Adler is a prominent figure in the CATV industry, one of the industry's leading consultants, majority or minority owner and operator of several CATV's, and a past member of the Board of Directors of the National Community Television Association. FEC has done an extensive background

investigation and financial checks of this individual which have resulted in favorable reports. Mr. Adler has been used as a consultant in CATV on at least six (6) different occasions and FEC has been well-satisfied with his services. Mr. Adler proposed to FEC that he and five (5) colleagues form a holding company for which he projected $50 million of CATV business. He said he could recruit the five (5) best CATV experts in the business to work with him under the ITT holding company concept. This program was not feasible because of restrictions placed on the holding company concept by Davis Polk.

7. The Bahamas might well be a profitable area if you could offer mainland programs as there are a lot of fairly important users including a complete hotel complex not unlike the Puerto Rico plan that you mention in this report. I would like to suggest that this be investigated promptly, particularly if the Puerto Rico plan is successful.

During 1965, FEC had two (2) responsible representatives visit the Bahamas for the purpose of evaluating whether or not this was a suitable area for investment. It was felt that this might well be a profitable area; however, there were transmission problems and political problems which placed the Bahamas in an area of lower priority for FEC. A re-examination of these prospects will be made before the end of 1965.

[2182] 8. The interconnecting communications carrier is a very interesting field in the sense of giving a key position in relation to any later advertising, etc. In some respects, it may be a key area in that it would put you in a position of representing in the marketing field CATV operations that we do not own. I'd like to see more of what this consists of.

FEC has consummate interest in acquiring interconnecting communications carriers and has looked at systems in Illinois, Florida and in the Texas southwest. FEC needs to establish an arrangement with ITT Headquarters to facilitate the acquisition process as it relates to this type of system. There is no question, insofar as FEC planning is concerned, about the desirability of acquiring such systems; however, maximum attention at this point in time is being devoted to the acquisition of CATV systems. The development of FEC progress in 1966 and 1967

in the CATV field will undoubtedly include situations involving the possible acquisition of microwave carrier systems.

9. Some general questions: Who makes the legal reviews for each franchise, including the terms, etc., before we invest our money?

Exhaustive legal reviews are made by attorneys from FEC, KCC and Davis Polk. Presentation of all documents and various opinions of counsel are a pre-requisite to signing loan documents which precede the first draw down.

10. By separate memo, copy to you, I will ask John Thompson to get busy on the developing of our own equipment, cable, amplifier, and stations and the possibilities of a cheaper "slave" TV set for color.

This would appear prudent in view of market predictions (see details in FEC CATV presentation).

11. Who examines the operating franchises to be sure that they are (1) exclusive, (2) adequate length of time and contain all requirements we would need should we become the direct owner.

Only six (6) percent of the franchises in the CATV industry are exclusive. Practically all franchises are non-exclusive and their exclusivity is attained by virtue of investment and build-up of service. Pole attachment rights are also non-exclusive; however space on poles is limited and it is difficult to conceive [2183] of more than one (1) operator using the same poles. Franchises and pole lease agreements vary in time; however, no cases are known where a city council or a municipal controlling body has ousted an incumbent. If a CATV company provides poor service, the risk of retaining exclusivity becomes higher. To sum up: it is the nature of the business to work with non-exclusive franchises and with pole lease agreements which contain the open possibility of competition. On the basis of experience, however, no serious problems have yet arisen in this regard within the CATV industry. This is a known risk area to which the entire industry is exposed. Since the liability is shared by the industry, there is a common conviction in the CATV industry that federal and in some areas, local, regulation will become dominant and will serve to protect the CATV operator.

278-719—67——34

12. I think the question of policy of leasing lines from the Bell System and others should be examined and we should develop a policy against the points you are concerned about, namely, lack of exclusivity, control of programs, etc. Many of the independents will be guided by the recent USITA policy which tends to control the facilities on the theory that they are protecting their *present franchises*. I am not at all sure that you could not work with these companies if you had the right agreement. In the case of the independents, they will also represent markets for equipment. In the case of CATV areas, they may well represent the cheapest way to move for a period. I think this policy area should be thoroughly investigated from both an operating and legal basis.

FEC has already instituted the following action:

a) Analyzing Bell's lease-back tariffs to determine economic feasibility of using this means to provide CATV services.

b) Where the telephone company refuses a pole lease contract, determining the restraint of trade implication.

c) Prepared a memorandum to *all* independent telephone companies expressing the desire to assist them in entering the CATV market via FEC/ITT engineering, financing, installation, construction and other services plus ITT products (when they become available). See actual letter in FEC CATV report.

d) FEC has been available to make deals with telephone companies; however, none have been available. Preliminary investigation indicates that the telephone companies have not yet offered a fair proposition which is attractive to FEC.

[2184] 13. I would like to see a basic analysis on why we feel this is a good field and why it will stand up over a period of time. This should involve some real objective analysis of the improvement in color programs by use of cable TV *versus* whatever projected improvements there are to be in the sets themselves, etc., assuming that you are now working on the theory of color versus fringe reception. Again, I would like to have this whole question of the future projected against what-

ever you think are the requirements filled by CATV so that we can get an idea of the ultimate scope of the entire industry and since we cannot cover more than a percentage, what our territories should be, whether urban or rural, or eastern or western markets. As I mentioned in the meeting, we will need direction from our Advertising Department as to markets that would represent coverage desirable.

To some degree we are assuming that color TV will bolster the salesability of CATV services, but in no case as yet have we assumed that this factor alone will spell the difference between success and failure of a specific proposed CATV loan. Color TV sets will undoubtedly improve in their ability to provide better color discrimination, but as long as signals are susceptible to interference, degradation, etc., between the station transmitter and home receiver, cable TV provides maximum picture clarity.

On the matter of a basic analysis on why this is a good field and whether or not it will stand up over a period of time, the Stanford Research Institute (Long Range Planning Service) recently spent a full day with the FEC CATV staff and a host of industry leaders as well as antagonists. The result was a draft received at FEC 1 November 1965. Preliminary examination of this draft reflects the conclusion that CATV is a most attractive industry for investment. The Stanford Research report is a comprehensive analysis and it is suggested that until its implications can be fully evaluated, no difinitive effort on the part of FEC or ITT be undertaken.

Regarding marketing on a regional basis, all of our efforts to date are widely dispersed geographically. We are, or have been, working with groups representing virtually every major region of the United States.

Since CATV is operating successfully in every state in the union, and at this point in time, no one region appears to have a greater potential than another, any decision to concentrate or de-emphasize our CATV effort would have to be based upon factors other than general business outlook, such as ITT strength in particular areas.

[2185] The CATV market today is definitely moving towards urban areas. However, FEC believes that there is still a large

untapped market is sparsely settled rural areas. This market cannot be penetrated today because of high plant costs. If costs can be reduced (mostly in cable and components areas) towns or settlements ranging from several hundred to one thousand homes can be served, where in most instances it is not possible today.

14. The credit review carried out by Kellogg Credit is perfunctory and they are relying on the FCC to warrant the loan. I note that Chasen is making an attempt to support what he calls people of good character, but I think that with the size of the investments that we are making there should be some kind of form to put down and review what are the "good investments" in order to have more than one person reviewing and reaching these decisions. It is necessary to have some independent review. I note according to this report that $10 million has already been used by the end of 1965 and that we are talking about another $10 million by mid-1966. I am assuming that there are no commitments beyond the amounts that have been reported and within the total of the $10 million originally approved. We will want to carry out these reviews before we allocate any more money and I think this program should be put immediately into effect.

FEC has not exceeded the $10 million limit in loan commitments. FEC believes that this is a high risk business and that its activities merit staff review. FEC accepts operational responsibility together with the implied profit and loss commitments. The overview and staff responsibility as to the uses of money as related to prudent business judgment resides not only with FEC but with ITT Headquarters staff. (See FEC report for further details on how business judgments are made and how implemented agreements are monitored from Paramus).

As a matter of information, each CATV opportunity is carefully investigated, screened and reviewed by the FEC management. Before any agreement is referred to the KCC, it is subjected to intense investigation and analysis. A document is prepared in text which is made available to the KCC. Numerous questions are asked which must be answered before a vote on the loan is taken. Your attention is directed to the fact that in each and every situation where FEC has become involved, it

has engaged the leading consultants in the industry to investigate and make recommendations and observations. In every case where a commitment was made, FEC has received favorable recommendations. It is also noteworthy that a great many have been rejected on the basis of FEC's own judgment or with the judgment of outside consultants.

[2186] 15. There is a list of legal points which I think need further review.

FEC would be available to discuss legal points. As indicated before, exhaustive legal analyses are made to assure minimum risk. FEC uses outside counsel and KCC utilizes both Davis Polk and correspondent counsel in the area where the CATV system resides. Legal personnel are involved in every single decision relating to a written agreement.

16. Incidentally, I'd like to know what extent we are supervising and checking the operations of the operators since the sole security we have for our money represents in the final analysis the operating franchise. For example, what kind of agreements are we signing with the subscribers? How quickly can they be terminated? What is our position in relation to the subscribers in the event that they wish to use a different service, effectively refuse to use the service, etc? I cite this as one of the many questions which affect the value of this franchise from the standpoint of our investment.

The FEC report reflects the manner in which we supervise and check the operations of our CATV operators. The type of agreement we sign with the subscriber provides terms and conditions which reflect that they can be terminated for non-payment of their bills. Samples of such agreements are in the FEC report. FEC does not believe that a subscriber can be prevented from using a different service if he so desires. It is important to note, however, that no instance is known in the CATV business where a competitor made his service available so that a subscriber could cancel his agreement to take another's service. No prudent businessman has yet invested his money to overbuild an established system. A subscriber is fiercely wooed to obtain his signature and it is not considered possible to give

him terms and conditions which bind him except to pay his bill. These agreements are request agreements and throughout the industry follow the general pattern as reflected by the two (2) exhibits in our report.

17. I am assuming that all of these warrants that we have invested in can be exercised at our option and requires no further basic approval; otherwise, there is no real ownership of the equity.

Stock warrants are accessible at any time in total or in part from time to time at a pre-established nominal price without any additional approvals.

[2187] 18. In general, recognizing your problems as well as my own in communications on those developments, I am going to ask Jack Vollbrecht to keep his eye on it for me. I would appreciate your advising Chasen accordingly. My feeling is that this will work to the advantage.

No comment.

19. How are we going to handle the tax forward loss in this operating company and at what time do we have to convert our debt to equity in order to benefit since these carry forward losses will expire in certain periods of time?

In all of the franchises accepted to date, FEC has been able to take full advantage of the 5-year loss carry forward against future earnings. It should be noted that normally a CATV franchise moves into a profit situation during the third year and unless there is an unusually slow buildup of profits after the third year, it is very unlikely that we will ever be in the position not to take full advantage of this tax provision.

20. If we convert our debt into less than 100% equity, on what basis are we recovering our original investment before the split of future profits with our partner, and are we doing so with full interest? Otherwise we would be making a gift of our capital as well as 30%, or whatever percent, of our future earnings which I do not think would be warranted.

The loan agreement provides that no dividends can be paid prior to total debt being retired. Since ITT stock warrants can be exercised at any time, we can participate in dividends to the extent of our stock equity when debt is retired.

21. We need a weekly report on this whole subject and it should be issued each Friday.

A weekly report will be made available.

22. The Public Relations Department and the Legal Department need to be charged with the responsibility of constantly identifying and translating the legal and regulatory trends both in Washington and throughout the United States that might affect these investments, present and future.

FEC will be glad to identify existing problems and areas of concern and as always will welcome assistance from ITT on these matters.

[2188] 23. What are the important considerations of the present indicated FCC regulations regarding not showing local TV station programs for two weeks before and after the local TV showing date. I would think that this would make it very complicated to furnish programs to the subscribers.

Present FCC rulemaking applies only to microwave transported signals provided to a CATV system where these signals duplicate locally transmitted programming. In all of FEC's activity to date, where microwave is employed, all regularly scheduled programming transported by microwave is non-duplicating material emanating from independent (non-network) stations.

J. W. GUILFOYLE.

[2189] SKIATRON PROPOSAL TO ITT

Proposal: That ITT consider the possibility of a major expansion, WORLD-WIDE into the dynamic field of 'subscription' television (Pay-TV and CATV are both 'subscriber' operations), through the acquisition of a long-term exclusive franchise for the proven SKIATRON Central Billing System. ITT is one of the fastest-growing and most diversified companies in the communications field, and it would be a logical participant 'internationally' in Pay-TV and CATV, which are "natural allies." Moreover, CATV is also a natural conduit for SKIATRON's 'compatible' Central Billing System as a 'supplemental' service which could greatly increase CATV gross re-

ceipts and rapidly expand into a NETWORK of CATV television receivers, as and when deemed desirable.

Franchise or Acquisition? Outlined herein are two different propositions. The first proposal includes a grant to ITT of a long-term exclusive license (Franchise) to the patented and trademarked (World-wide) SKIATRON[1] Subscriber-Vision[1] Central Billing Systems, which have inherent technical and economic advantages over its two principal competitors, Zenith-RKO and Telemeter (Paramount).

Franchise: SKIATRON is prepared to consider the grant of an exclusive license to ITT to operate, use and promote the Subscriber-Vision systems for the entire Free World (outside the United States). ITT may negotiate a franchise for the United States with Subscription Television, Inc., [2190] (SKIATRON's exclusive United States licensee).

Acquisition: The SKIATRON management may be receptive to an offer from ITT to acquire control. (Pertinent facts about SKIATRON's capitalization may be found on page 4).

CATV: There are approximately 2,000 community antenna television (CATV) systems in the United States and Canada, and now CATV's and subscribers are rapidly increasing. The STV-SKIATRON system employed in large-scale operations in LOS ANGELES and SAN FRANCISCO demonstrated that SKIATRON'S closed-circuit (cable) Pay-TV is technically far superior to any broadcast (over-the-air) system as it insures trouble-free, crystal-clear reception of both black and white or color television programs.

CATV—Queens—L.I., New York: SKIATRON has filed with the Board of Estimate, New York City, for a CATV in the Borough of Queens, specifically the Forest Hills-Rego Park area, comprising over 25,000 apartment units within 100 square blocks and including many high-rise buildings.

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[1] 'SKIATRON' and 'SUBSCRIBER-VISION' are well-known trade-marks, world-wide)

Montreal Canada: (CATV): Following a survey, our Technical Consultant advises that Montreal could become the largest CATV operation in the world, because of its geographical position. SKIATRON is in negotiation with CATV operators in Montreal, whose partners control a sports stadium and also own two professional champion teams in the popular sports, ice hockey and football. It is proposed to establish a combined Pay-TV-CATV operation utilizing the 'SKIATRON' system in Montreal, with expansion planned to Toronto, Quebec and Vancouver, etc.

[2191] Management: The present SKIATRON management which has pioneered in the field of Pay-TV since 1950, is prepared to assist ITT in furtherance of any expansion plans in the field of Pay-TV and CATV, providing a considerable fund of know-how.

Potential Tax-Loss Benefits (in Excess of $2 Million): Calculations based on advice of SKIATRON's Auditors indicate that the company has a potential tax-loss carryforward (including deferred development and experimental expenditures) in excess of $2 million, which may be applied against future income for a period of time before Federal Income Taxes may accrue.

[2192] SKIATRON ELECTRONICS & TELEVISION CORPORATION

Statement of capital stock

Capital Stock	2,500,000	
Outstanding Stock (10,000 stockholders of record)	1,581,250	
Of the Outstanding Stock, Arthur Levey, Founder and President, owns 270,000 shares	---------	17.08%
Unissued Stock:		
(A) Option reserved for Arthur Levey 200,000 at $2.05 per share (110% of market value at the time of grant)—expires 1968	200,000	
	1,781,250	11.22%

Statement of capital stock—Continued

Warrants Outstanding:		
(B) James A. Mulvey, 5,500 at $4.90 per share (expires 1972)	5, 500	.27%
(B) James A. Mulvey (Part owner of the Los Angeles Dodgers Baseball Team) as Nominee for Walter O'Malley and others, 244,500 at $4.90 per share (expires 1972)	244, 500	12.96%
(A) Total Outstanding Stock	2, 031, 250	12.30%
Balance Unissued Stock	468, 750	
	(A)720, 000	35.44%

(A) If and when the option and Warrants are exercised, $410,000 from Arthur Levey—$1,225,000 from James A. Mulvey and Walter O'Malley, will flow to the company's treasury. There is an agreement whereby Arthur Levey may vote the entire 250,000 warrants, as long as O'Malley and/or Mulvey or any relative, etc., owns the stock, directly or indirectly, which would give Levey a total vote of 720,000 shares.

(B) James A. Mulvey as Nominee for Walter O'Malley, President of the Los Angeles Dodgers Baseball Team, and others.

[Federal Communications Commission exhibit No. J–123; presented by Justice Department]

NOVEMBER 8, 1965.

[2193]

Memorandum to: Mr. H. S. Geneen.

Subject: CATV.

Attached please find a memorandum from FEC listing 18 possible cities which have a potential for an exclusive arrangement similar to Asheville, North Carolina. As indicated in the memorandum this is a preliminary list but FEC has had some contact with cognizant people in some of the available cities. They are pursuing all of these areas in a timely manner and will report their progress in each Weekly Report.

I have advised Bob Chasen that he should pursue these areas where there are possible exclusive franchises in view of the higher risk in non-exclusive areas. He is currently preparing replies to the Action items given to him at the CATV Meeting on November 2.

J. W. GUILFOYLE.

FEDERAL ELECTRIC CORPORATION,
November 4, 1965.

[2194]
Memorandum to: R. E. Chasen.
From R. C. Pittman.
Subject: Cities Where Situations Similar to Asheville, North Carolina Could Exist.

As a result of our meeting with Mr. Geneen on Tuesday, 2 November, and your request that we examine the potential CATV market for situations providing the security of the Asheville, North Carolina franchise, we have come up with the following list of cities:

	Population
1. Decatur, Illinois	78, 000
2. Greensboro, North Carolina	119, 000
3. Lawrence, Massachusetts	67, 000
4. Hendersonville, North Carolina	6, 000
5. Spartanburg, South Carolina	47, 000
6. Greenville, South Carolina	22, 860
7. Raleigh, North Carolina	104, 000
8. Durham, North Carolina	81, 000
9. High Point, North Carolina	65, 000
10. Salisbury, North Carolina	22, 000
11. Winston-Salem, North Carolina	139, 000
12. Charlotte, North Carolina	230, 000
13. Montgomery, Alabama	148, 000
14. Houston, Texas	1, 100, 000
15. Birmingham, Alabama	345, 000
16. Shreveport, Louisiana	171, 000
[2195] 17. Albuquerque, New Mexico	242, 000
18. El Paso, Texas	309, 000

In the case of Decatur, Illinois and Greensboro, North Carolina, we have been pursuing these situations prior to the Tuesday meeting, and they appear to be fairly favorable. Decatur presently has approximately 20,000 TV sets, and it appears that a 30-year exclusive lease can be negotiated. Greensboro has approximately 40,000 TV sets. We are in the preliminary stages of negotiations on Greensboro, with a meeting scheduled for November 15th.

It is interesting to note that many of the above-mentioned cities have expressed interest in the Asheville type of situation, and have approached the city government of Asheville, since our arrangement with them, to get more detailed information

as to how they can arrange exclusive franchises or leases with the system reverting to the city at the end of the franchise or lease, as Asheville has done. Although the above list of cities, due to time limitations since our Tuesday meeting, are by necessity a preliminary listing, I feel confident that we will have a high degree of success if it is the ITT decision to go the exclusive franchise or lease route with the property reverting to the city.

R. C. PITTMAN.

[Federal Communications Commission Exhibit No. J–126; presented by Justice Department]

[2202] DECEMBER 28, 1965.

Memorandum For: Mr. H. S. Geneen.

Subject: CATV—Status Report.

This report is in two parts. First, the CATV Franchise for Baton Rouge, La. Second, operation of CATV systems as a business enterprise.

I. THE CATV FRANCHISE FOR BATON ROUGE, LOUISIANA

A. FEC has kept itself in a position to close this deal without committing itself to making the deal. The magic date is January 12 when the Louisiana interests will know whether they are the successful bidders for a Baton Rouge franchise. FEC has been helping them prepare their presentation and otherwise assisting in every possible way.

B. FEC planned to present this proposal as an exception to the freeze, if the Louisiana interests were successful in their bid for a franchise. I have asked them to get their proposal in to avoid a crash program around the 12th.

C. FEC believes they can close this arrangement with the Louisiana interests on a profitable basis for FEC, i.e. at a pretax return in excess of an average of 35% per year for 15 years. The essence of the deal from FEC's standpoint is as follows:

1. The investment required would be $3,000,000 to service a market in excess of 60,000 homes that is presently served by two stations.

2. Additional signals would be brought in from New Orleans.

3. ITT would have a minimum of 51% of the equity interest in the operation.

4. The franchise would technically be non-exclusive but there would be no practical risk of overbuild.

[2203] D. In Mr. Gerrity's absence I was able to obtain the following from Mr. Perkins of the public relations department:

1. We want to accommodate the Louisiana group on the Baton Rouge franchise if we can do so without losing money. While we want to come out as profitable as possible, our real objective here is to build a political plus—not drive a hard bargain—i.e. we don't want the Louisiana group to go forward with someone else.

2. Hence, we are committed politically to going forward with the Louisiana group if they are the successful bidders for the Baton Rouge franchise.

E. In handling this proposal, we should insist on the following disciplines between FEC and public relations:

1. FEC is responsible for negotiating a deal that meets our agreed minimum requirements for a profitable operation for FEC.

2. If FEC is unable to negotiate such a deal, they must keep negotiations open for public relations department. Public relations is responsible for the cost of any deal that produces less than the minimum profit standard for FEC.

II. OPERATION OF CATV SYSTEMS AS A BUSINESS ENTERPRISE

A. In the CATV meeting on November 2 your instructions were to stop any new investments beyond those already committed until we could justify additional ITT investment in this type of business.

B. Investments were frozen at the commitment level at that point—$8,250,000. Since November 2, a commitment of $1,625,000 to Alabama Cable Corporation has since been scratched due to the pullout of Alabama TV from their side of the bargain. *Therefore, the total commitment level is frozen*

at $6,600,000 in six separate systems, per the attached recap. This list does not include the proposed venture for a CATV system in Baton Rouge, covered in Part I, above.

C. We have not yet been able to satisfy ourselves on a go or no go decision. We expect to do this within the next two weeks. In any case, FEC is satisfied that the time spent is not dissipating profitable deals. Hence, we are avoiding the risk of jumping too soon without running the risk of moving too late.

[2204] D. The requirements are stiff for going forward because of the high risk factors—long payout (8 years to get back investment)—in a new business field for ITT. Hence, we have to invest a lot of money before we can prove from experience that we know what we're doing. To justify this kind of risk, FEC agreed that any future operation must produce the following results:

> Minimum return of 35% on investment per year for a 15 year period. The 35% return is calculated on income after depreciation, but before interest charges and Federal income tax.
>
> Safety valve—we won't lose our original investment, regardless of conditions created by regulation or competition.

Note that investment is spread across a number of projects, so that if any go sour—we still have the others to cushion the blow.

E. To assure getting the above results FEC's plan must deal with the following basic points:

1. Clear identification of the kind of CATV service we are sure people will buy.
2. Selection of the market areas in which we can provide the above service, at profit levels we require.
3. How to obtain franchises and guarantee protection from overbuild at cost (in terms of fees and equity participations) that we can afford.
4. How to minimize governmental regulation of customer charges.
5. How to avoid the killing effect of Federal or State regulation that would limit our ability to provide the signals we have to sell.

6. How to retain the right to control the operation of each system from its inception, without having to consolidate the profit impacts of systems operations until we are ready.

7. How to take ordinary income tax deductions for investment losses, without incurring ordinary tax on the value of equity warrants, when exercised.

[2205] F. Intercompany Cooperation:

1. We have resolved the problem of cooperation with the telecommunications group concerning possible conflicts of interest with independent telephone companies in the construction and operation of CATV systems.

2. We are aware of the need of cooperation with ABC and plan to work out the details of this as soon as our internal planning has been completed. We also plan to request their audit of our decision to go or no go.

G. Staff Participation: All staff groups are participating as follows:

1. Treasury on credit and formula for calculating return on investment; plus consulting advice through Kenmore and Gerard.

2. Legal on regulation, copyright problems, legal basis for FEC operating control of each franchise, miscellaneous legal problems.

3. Tax on tax effect of planned operations, and best tax result.

4. Comptroller on accounting treatment of CATV systems, and consolidation of CATV earnings with ITT.

5. Public relations on Louisiana and in all public relations.

6. Engineering audit of technical validity of planned CATV systems.

7. North America marketing on validity of marketing criteria.

8. All will be represented in the CATV committee meeting to review validity of total plan.

J. H. VOLLBRECHT.

[2206] *Report on CATV financial commitments to date*

A. *RECAP OF FINANCIAL COMMITMENTS TO DATE*

1. Garden State Television Cable Corp.:	
Loan Commitment	$1,350,000
Completion Date	10/1/67
2. Northwest Cablevision Inc.:	
Loan Commitment	$700,000
Completion Date	9/1/67
3. Unicable, Inc.:	
Loan Commitment	$400,000
Completion Date	7/1/67
4. Television Transmission Co. of North Carolina:	
Loan Commitment	$750,000
Completion Date	12/1/67
5. Puerto Rico Cablevision—Certified Signal Corp.:	
Loan Commitment	$1,200,000
Completion Date	10/1/67
6. Southwest CATV Inc.:	
Loan Commitment	$2,200,000
Completion Date	11/1/67
*Total Loan Commitment	$6,600,000
Date Final Commitment	12/1/67

*NOTE: Reduction of $1,625,000 from original $8,250,000. FEC commitment due to loss of Alabama TV Cable Corp. to Stromberg Carlson.

[Federal Communications Commission, Exhibit No. J–129; presented by Justice Department]

[2214] FEDERAL ELECTRIC CORPORATION

To: Mr. J. Vollbrecht.

Enclosed is the December 17, 1965 CATV Status Report.

ROBERT E. CHASEN.

[2215] CATV STATUS REPORT—DECEMBER 17, 1965

I. SIGNIFICANT DEVELOPMENTS

A. The motion presented by the attorneys of FEC and the New Jersey Antenna TV Association to strike the tariff from the New Jersey State PUC was denied and hearings are slated to resume on January 5, 1966. However, the National Association has engaged Mr. Bill Orrie, an anti-trust lawyer who is initiating anti-trust action using the Kingsbury Agreement and Consent Degree of 1959. FEC attorneys are in attendance in

Washington for this meeting and this should aid the ITT position when the hearings resume in January.

B. The screening grid has been completed and distribution will be made.

II. CURRENT STATUS

A. *Southwest CATV, Inc.*

Program is moving according to schedule and the complete construction schedule has been made available for our principal and internal distribution within FEC.

B. Northwest Cablevision

The Seattle Times has been in contact with Mr. Brad Harrison concerning their offer to buy a minority interest in the company, as outlined in CATV Status Report dated December 3, 1965. Mr. Harrison will schedule a meeting to define the specific details involved in this proposal and requests that FEC/CATV Management be present.

C. Unicable, Inc.

Stranding has started in Oswego and will proceed as quickly as the pole plant is made available. Cable plant has been installed from the head-end site to the Unicable office in Oswego.

D. Garden State Television Cable Corp.

The turnkey contract and loan documents have been signed with the final loan closing slated for December 22, 1965. Bridgeton is now on the air with paying customers and Hammonton will be complete by January 1, 1966, when it will be turned on. Construction is proceeding in Vineland and Northfield.

[2216] *E. Television Transmission Co. of North Carolina*

Strand mapping is complete, system design is underway, and construction scheduled to start on or about February 1, 1966.

III. OPPORTUNITIES UNDER STUDY

A. International Cablevision Inc. (Acquisition)

Four systems in Florida and Texas. The Consultant's Report was excellent. The one system in Florida probably should not

be acquired; however, he feels that, in the case of the other three, the company owning the systems is sitting on a gold mine and does not have the sense enough to commence digging. A pro forma will be prepared setting forth the acquisition costs along with the new plant requirements to determine whether or not a recommendation for acquisition should be pursued.

B. Baton Rouge, Louisiana

City Council of Baton Rouge has tentatively set December 21 as date for final meeting on CATV franchise. Mr. James H. Gill, Jr. has been in constant contact with members of the Council and feels that FEC and his company, Certified Signal Finance Company of Louisiana, has inside chance of obtaining franchise in Baton Rouge. Franchise may be non-exclusive.

C. Philip Gibson—Consultant

Mr. P. Gibson has advised us that the opportunities as outlined in the December 3, 1965 CATV Status Report have to be acted upon in the immediate future if our interests are to secure the franchises available. Letters of financial support from ITT must be sent to the companies applying for the franchises immediately. Mr. Gibson feels that, if we do not act immediately in these areas of New England which he has cultivated, FEC's chances will be hampered. He further advises that Mr. Allen Robert's group, who holds franchises in Ware, Brookfield. Warren and Webster, requests immediate decision from FEC as to whether or not we are interested in these franchises.

[2217] Mr. Gibson has also been in touch with Mr. Robert E. Lee, FCC Commissioner in Washington, concerning a common carrier microwave license covering the New England states.

Mr. Lee was in complete accord with this and will offer help to Mr. Gibson in submitting a common carrier plan. Mr. Lee also mentioned to Mr. Gibson that he would like his son involved with a company engaged in CATV or common carrier microwave and thought if it were possible he would like to see him working with Mr. Gibson.

[2226] [Federal Communications Commission, Exhibit No. J–132; presented by Justice Department]

FEDERAL ELECTRIC CORPORATION,

November 12, 1965.

Enclosed is the first weekly report of CATV activities. Effective immediately, this report will be provided every Friday until further notification.

ROBERT E. CHASEN.

[2227] CATV STATUS REPORT—NOVEMBER 12, 1965

I. CURRENT STATUS

A. Freeze placed on new [not legible] by Hart Perry of ITT.

B. FEC exploring in depth possibility of converting non-exclusive franchises to exclusive franchises by additional commitments from cities involved.

II. OPPORTUNITIES UNDER STUDY

A. Asheville, North Carolina

Franchise is being examined by FEC Legal and Accounting in order to determine trade-off between exclusivity and high franchise tax with give away of system to city in 20 years. Economics will determine direction of FEC/ITT decisions.

B. Prattville, Alabama

FEC has copy of exclusive franchise for this city of 5,000 homes. Franchise costs $10,000—30% equity—70% ITT. Decision must be reached quickly or Bill Headley and R. Surprenant have next crack at it.

C. New Jersey Group

Video Link Corporation has two franchises for Camden area and claims will have by Christmas 1965 a total of 25 in same area. These are non-exclusive franchises made exclusive by commitment from city.

Note: These fit within the exclusive franchise requirements of ITT. Meeting held 11/12/65 with principal.

D. Decatur, Illinois

Visit was made and offer extended to city for exclusive leasing agreement—turned down by city—now slated to be a 15 year non-exclusive franchise. GE seems to be leading contender.

E. Greensboro, North Carolina

Meeting held with principal who is submitting offer based on Asheville offer with exclusive 25 to 30 instead of 20 years and 10% franchise tax instead of 16% in Asheville.

[2228] *F. Slidell, Mississippi*

James Gill, Jr. of Louisiana has successfully obtained exclusive franchise for Slidell. FEC presently evaluating Slidell and Gill's proposed acquisition of Picayune, Mississippi.

G. T.T.C. of Illinois

Prospect for acquisition of this system together with its microwave still open.

H. International Cablevision

Consultant presently studying the four systems in Florida and Texas and evaluating the microwave potential as well as the CATV potential.

III. PROBLEMS

A. Unicable Inc.

Poles being set in place by subcontractor. Work temporarily halted with threat of injunction of city attorney who is attempting to force Bell and Niagara Mohawk to issue pole lease agreement to Unicable. Situation being closely followed.

B. Garden State Television Cable Corp.

Opening of Bridgeton system postponed due to incorrect bench marks which establish the base line for the microwave system. Problem will be resolved in one week. System now planned for opening on November 26 and 27.

IV. MISCELLANEOUS

A. A study is being made of the microwave and common carrier potential through acquisition and/or development throughout the United States. FEC will have report ready by 12/1/65.

[Federal Communications Commission Exhibit No. J-133; present by Justice Dept.]

[2229] FEDERAL ELECTRIC CORPORATION,
December 17, 1965.

Memorandum to: Distribution.
Subject: Minutes of CATV Committee Meeting, Friday, December 3, 1965.

The first meeting of the ITT CATV Committee was held on Friday, December 3, 1965. The following were in attendance:

J. W. Guilfoyle: ITT
H. G. Busignies: ITT
R. E. Chasen: FEC
R. C. Pittman: FEC
J. C. Black: FEC
J. Pospisil: KCC
H. Steinke: ITT Legal
J. Berke: ITT Comptroller's Department
J. Fitzpatrick: ITT Public Relations

Mr. R. E. Chasen opened the meeting by stating the purpose of the meeting and then set forth the scope of the Committee's activities.

Mr. Chasen acquainted the Committee with what was being done on the development of an evaluation grid by FEC which is working closely with Mr. J. Vollbrecht of Mr. Geneen's staff. The evaluation grid under development will set forth the parameters within which FEC would operate. A draft of the grid will be given to Mr. Vollbrecht upon his return from Brussels.

General discussion followed on the following subjects:

1. Equipment—Should ITT be in equipment business.
2. Cable—Status of ITT Wire & Cable.
3. Should ITT stay in CATV business with new proposed PUC type regulation.

[2230] 4. Northwest Cablevision, Seattle, Washington. Offer to buy 16% by Seattle Times.

5. Dangers to CATV and how ITT should prepare to face them.
6. Legal Problems.

7. Evaluation of high fee exclusive lease franchises in major cities as against non-exclusive with lesser franchise fees.

The following action items were assigned for next meeting:

1. *ITT Legal—H. Steinke*

a. Set priority—legal problems and report new priority on studies b., c., d. below.

b. Assignment covering study of proposed rates and tariffs—PUC.

c. Assignment—Effect on CATV if FCC control.

d. Study on exclusivity of the franchises and state laws governing.

2. *ITT Comptroller's Department—J. Berke*

a. Assignment of closing loop on ITT financial responsibilities.

3. *FEC—R. E. Chasen*

a. Complete evaluation grid and make distribution to committee members after Mr. Vollbrecht's approval.

b. Determine distribution of reports.

Suggestions were invited on how to improve the FEC weekly CATV report. The following areas will be included in future reports:

1. News items.
2. Competitor activity.
3. Industry status.

ROBERT E. CHASEN.

[2231] Distribution:

Messrs. H. S. Geneen
R. E. Bennett
J. Berke
R. Brittenham
H. Busignies
J. C. Black
A. S. Duffy
R. J. English
J. Fitzpatrick
W. J. Flanagan

E. J. Gerrity
J. W. Guilfoyle
R. Kenmore
H. C. Knortz
J. Morse
C. G. Pansegrau
H. Perry
R. C. Pittman
J. Pospisil
P. G. Richards
H. A. Steinke
J. Thompson
J. Vollbrecht

[Federal Communications Commission Exhibit No. J-134; presented by Justice Dept.]

[2232] NOTES TO JACK GUILFOYLE REGARDING CATV PROGRAM—OCTOBER 27, 1965

1. I note Skiatron is involved in both Queens and New York. I see figures of $10 to $20 million respectively. I also notice some discussions with Mr. Pat Weaver. I would like to discuss this whole area with you for two reasons: first, it is a major investment area, and, second, I have had some approaches through a political area as to our doing business with Skiatron. Also, I would like to know what Mr. Weaver's interest in this program is.

2. The financial projections attached are in terms of a mythical $250 per subscriber for which we intend to sell the company.

3. Since under (2) if we do not exercise the warrants on the assumption that we are not in control, there is no question of consolidating either profits or losses. From the standpoint of the collateral and risk involved, we have to have not only projections of subscribers, *but also operating expenses and net profit by year*. It is unrealistic to talk about an investment of $10 to $20 million based on future sales values as the attached memo does, without any reference to the underlying earnings, since this is the *only* security.

4. Do we have any commitments on the equipment that we will use, or can we use our own manufacture.

5. What is the story in Louisiana in general, because I think this is one where we would have some strength.

6. Who is Mr. Adler in the proposed $50 million program?

7. The Bahamas might well be a profitable area if you could offer mainland programs as there are a lot of fairly important users including a complete hotel complex not unlike the Puerto Rico plan that you mention in this report. I would like to suggest that this be investigated promptly, particularly if the Puerto Rico plan is successful.

8. The interconnecting communications carrier is a very interesting field in the sense of giving a key position in relation to any later advertising, etc. In some respects it may be a key area in that it would put you in a position of representing in the marketing field CATV operations that we do not own. I'd like to see more of what this consists of.

9. Some general questions: Who makes the legal reviews for each franchise, including the terms, etc. before we invest our money?

10. By separate memo, copy to you, I will ask John Thompson to get busy on the developing of our own equipment, cable, amplifier, and stations and the possibilities of a cheaper "slave" TV set for color.

11. Who examines the operating franchises to be sure that they are (1) exclusive, (2) adequate length of time and contain all requirements we would need should we become the direct owner.

12. I think the question of policy of leasing lines from the Bell System and others should be examined and we should develop a policy against the points you are concerned about, namely, lack of exclusivity, control of programs, etc. Many of the independents will be guided by the recent USITA policy which tends to control the facilities on the theory that they are protecting their *present franchises*. I am not at all sure that you could not work with these companies if you had the right agreement. In the case of the independents, they will also represent markets for equipment. In the case of CATV areas, they

may well represent the cheapest way to move for a period. I think this policy area should be thoroughly investigated from both an operating and legal basis.

13. I would like to see a basic analysis on why we feel this is a good field and why it will stand up over a period of time. This should involve some real objective analysis of the improvement in color programs by use of cable TV versus whatever projected improvements there are to be in the sets themselves, etc., assuming that you are now working on the theory of color versus fringe reception. Again, I would like to have this whole question of the future projected against whatever you think are the requirements filled by CATV so that we can get an idea of the ultimate scope of the entire industry and since we cannot cover more than a percentage, what our territories should be, whether urban or rural, or eastern or western markets. As I mentioned in the meeting, we will need direction from our Advertising Department as to markets that would represent coverage desirable.

14. The credit review carried out by Kellogg Credit is prefunctory and they are relying on the FCC to warrant the loan. I note that Chasen is making an attempt to support what he calls people of good character, but I think that with the size of the investments that we are making there should be some kind of form to put down and review what are the "good investments" in order to have more than one person reviewing and reaching these decisions. It is necessary to have some independent review. I note according to this report that $10 million has already been used by the end of 1965 and that we are talking about another $10 million by mid-1966. I am assuming that there are no commitments beyond the amounts that have been reported and within the total of the $10 million originally approved. We will want to carry out these reviews before we allocate any more money and I think this program should be put immediately into effect.

15. There is a list of legal points which I think need further review.

[2234] 16. Incidentally, I'd like to know what extent we are supervising and checking the operations of the operators since

the sole security we have for our money represents in the final analysis the operating franchise. For example, what kind of agreements are we signing with the subscribers? How quickly can they be terminated? What is our position in relation to the subscribers in the event that they wish to use a different service, effectively refuse to use the service, etc. I cite this as one of the many questions which affect the value of this franchise from the standpoint of our investment.

17. I am assuming that all of these warrants that we have invested in can be exercised *at our option* and requires no further basic approval; otherwise, there is no real ownership of the equity.

18. In general, recognizing your problems as well as my own in communications on these developments, I am going to ask Jack Vollbrecht to keep his eye on it for me. I would appreciate your advising Chasen accordingly. My feeling is that this will work to the advantage.

19. How are we going to handle the tax forward loss in this operating company and at what time do we have to convert our debt to equity in order to benefit since these carry forward losses will expire in certain periods of time?

20. If we convert our debt into less than 100% equity, on what basis are we recovering our original investment before the split of future profits with our partner, and are we doing so with full interest? Otherwise we would be making a gift of our capital as well as 30%, or whatever percent, of our future earnings which I do not think would be warranted.

21. We need a weekly report on this whole subject and it should be issued each Friday.

22. The Public Relations Department and the Legal Department need to be charged with the responsibility of constantly identifying and translating the legal and regulatory trends both in Washington and throughout the United States that might affect these investments, present and future.

23. What are the important considerations of the present indicated FCC regulations regarding not showing local TV station programs for two weeks before and after the local

TV showing date. I would think that this would make it very complicated to furnish programs to the subscribers.

H S. GENEEN.

[2271] [Federal Communications Commission Exhibit No. J–138; presented by Justice Department]

[2272] TBSC VALUATION REPORT SEPTEMBER 26, 1963

Kuhn, Loeb & Co. Incorporated

[2273] VALUATION OF TBSC

In order to determine a value for TBSC, a representative group of six leading independent chain radio and television broadcasting companies were selected for comparative purposes as follows:

Metromedia, Inc.
Transcontinent Television Corporation
Capital Cities Broadcasting Corporation
Storer Broadcasting Company
Taft Broadcasting Company
Scripps-Howard Broadcasting Company

All the companies are publicly owned. Metromedia, Storer and Taft are listed on the New York Stock Exchange, Capital Cities is listed on the American and the rest are traded over-the-counter. Scripps-Howard was initially offered to the public on April 3, 1963. Transcontinent announced in August, 1963, that the company had sold, subject to stockholders' approval and favorable rulings by the FCC and Internal Revenue Service, all its stations but one and intended to liquidate. With the exception of Scripps-Howard and Transcontinent, all the other companies have diversified in varying degree into fields other than broadcasting.

The attached tables detail the financial and operating results of the companies and the current and historical price ratios for their common stocks. In the following paragraphs, the major financial items and price ratios are discussed briefly to establish a basis for determining the value of TBSC. There is also a brief summary of Federal regulation and the industry.

Capitalization

The use primarily of debt to finance acquisitions has resulted in high debt ratios for several of the companies. Capital Cities spent $19.5 million in 1961 for several stations and at the end of 1962 had $20.4 million of long-term debt outstanding, equivalent to 75% of total capitalization of $27 million. Metromedia's recent purchases of Ice Capades and a television and radio station in Los Angeles were financed through borrowings and its present debt ratio is approximately 64%. Only Scripps-Howard had no debt in its capital structure at the end of 1962. TBSC's income note due 1967 in the amount of $650,000 (about 10% of capitalization) will be prepaid in 1963, leaving no indebtedness in its capital structure. (See Tables I and Ia for details).

Applicable Assets

The greatest concentration of assets for most companies is in intangibles arising mainly from the excess of investment cost over the amounts allocated to the underlying net tangible assets acquired. Several companies that had previously amortized certain of these intangibles for tax purposes have abandoned this policy because of the action of the Internal Revenue Service in seeking to disallow the deductions. As a result, several companies have contingent tax liabilities remaining to be settled.

[2274] Metromedia had about half its assets in fixed assets because of its large outdoor advertising operation and Scripps-Howard with only 10% intangibles had 53% of its applicable assets in net working capital. As of August 31, 1963, TBSC had 24% ($1.7 million) of its applicable assets of $7 million in intangibles (radio and television development costs), 47% ($3.3 million) in net fixed assets and 29% ($2.0 million) in working capital. Any purchase price for TBSC in excess of its net tangible book value of $4.6 million (after deducting the $650,000 income note) will result in a large amount of intangibles not subject to amortization for tax purposes on the purchaser's balance sheet.

With little or no inventories required for operation, current assets consisted mainly of cash, receivables and film rights. At the end of fiscal 1962 only Scripps-Howard had current assets

more than twice current liabilities. TBSC on its August 31, 1963, balance sheet had $205,000 of cash and a current ratio in excess of 2 to 1 due to a substantial increase in other current assets to $1,990,000 from $72,000 at the end of 1962.

Income Account

The upward trend in revenues and earnings shown by the group for the 1958–1960 period was interrupted by a general business recession in 1961 when TBSC, Metromedia, Taft and Storer reported lower earnings. Revenues and earnings recovered sharply in 1962 and all companies reported record revenues and earnings except TBSC where higher depreciation charges at $532,000 kept earnings at the same level as in 1960—$1,136,-000—and below the $1,270,000 reported in 1960 when depreciation was $166,000. Interim results indicate that probably 1963 will be an excellent year, if not a record year, for the industry. Because of numerous acquisitions by many of the companies, a comparison of growth in revenues from 1958 to 1962 would be misleading. During that period TBSC increased its revenues 172% from $2.5 million to $6.8 million but the rate of growth is slowing down.

	% Change in revenues from preceding year
1958	+61
1959	+96
1960	+22
1961	+1
1962	+12
1963 (estimated)	+21
Average rate	+36

Operating profit margins (before depreciation) for TBSC declined from 46.7% in 1960 to 43.2% in 1962 so that despite an increase in revenues, operating profit before depreciation remained almost constant for the three years 1960–1962. Interim results have shown a sharp improvement and the operating margin estimated for 1963 is a record 47.0%. The diversified operations of several of the companies and the different accounting treatments accorded certain similar items make meaningful comparisons among the companies difficult. However, the com-

panies deriving most of their income from broadcasting activities show the highest profit margins and Scripps-Howard with 48.8% and Taft with 46.1% in 1962 are the leaders.

[2275] The high interest expense for several of the companies reflect the heavy debt loads incurred to finance expansion and diversification but sizeable cash flows and low percentage of earnings paid out as dividends have enabled these companies to meet debt service requirements.

As previously mentioned, the companies mainly in broadcasting and with low interest expenses have the best net profit margins. TBSC with 16.7% in 1962 was only surpassed by Scripps-Howard with 22.9% and Taft with 18.5%.

Price Ratios

The wide variations in the type of operations and capital structures that exist among the companies result in a wide variation in the range of their price ratios. Metromedia, with a portion of its earnings derived from activities other than broadcasting, currently sells at 24.6 times reported earnings of $1.46 per share for 1962 but only 10 times cash flow and 18 times estimated earnings of $2.00 per share for 1963. Highly leveraged Capital Cities currently sells at 16.8 times 1962 earnings and 9.1 times cash flow. Storer, with a relatively unimpressive record, sells on a yield basis, rather than on a price/earnings basis. Through the use of two classes of common stock and by paying a small dividend on the class privately held, Storer has been able to pay a much higher dividend on the class of stock held by the public and thus support the price of its stock. It is currently selling at 18.7 times 1962 earnings and 14.9 times cash flow and yielding 4.3%. Actually, the price/earnings ratio is lower as the company has recently repurchased 439,700 shares of its class B common stock with the proceeds of a $15 million bank loan. After allowing for the reduced number of shares outstanding, the current price is about 16 times adjusted 1962 earnings and 12.6 times adjusted cash flow.

Taft and Scripps-Howard, the companies most comparable with TBSC, sell at 17.2 times and 18.5 times 1962 earnings and 12.9 times and 15.1 times cash flow, respectively. Scripps-Howard, however, has excess cash of more than $5 million on

its balance sheet and if the value of the company is adjusted for that excess, the current price ratios are 17.1 times 1962 earnings and 13.9 times cash earnings.

Current price ratios

	Current price related to—			
	1962 earnings		3-year average earnings	
	Reported	Cash	Reported	Cash
Scripps Howard	18.5×	15.1×	20.0×	16.7×
Taft	17.2	12.9	20.7	14.9
Storer	18.7	14.9	20.5	15.6
Transcontinent	20.2	13.2	23.9	14.7
Capital Cities	16.8	9.1	22.6	12.5
Metromedia	24.6	10.2	34.2	11.0
Average	19.3×	12.6×	23.7×	14.2×

[2276] Book value is not an important factor in determining price for broadcasting companies because the values are the franchises and not fixed assets. Including intangibles, the companies are now selling at a range of 193% of book to 530% of book.

All the companies, except Capital Cities, are on a regular dividend basis and yields range from a high of 4.5% for Scripps-Howard with an 80% payout of earnings to 1.1% for Metromedia (20% payout).

Historically, the companies have sold on the average at 12 to 18 times reported earnings and 5.5 to 10.8 times cash earnings.

Valuation of TBSC

The two companies most comparable to TBSC are Scripps-Howard and Taft Broadcasting. If we were to apply the ratios at which these two companies sell to the earnings of TBSC the following values are derived:

Current prices related to 1962 earnings

[1962 earnings of TBSC—Reported, $1,136,000; cash, $1,668,000 [1]]

	Scripps-Howard		Taft	
	Reported	Cash	Reported	Cash
Ratio	18.5×	15.6×	17.2×	12.9×
Derived Value for TBSC	$21,016,000	$26,020,000	$19,539,000	$21,517,000

[1] Does not include amortization of film rentals of $327,000 as the amounts, if any, of amortization of film rentals included in the depreciation charges of Scripps and Taft are not known. In addition, TBSC must make payments under the rental contracts; $454,700 payable in 1963.

If we use Scripps-Howard's price ratios (adjusted for excess cash) of 17.1 times reported earnings and 13.9 times cash earnings, the derived values for TBSC are $19,426,000 and $23,185,000, respectively.

Current prices related to 3 year average earnings 1960–1962

[3 year average earnings of TBSC—Reported, $1,180,000; cash, $1,520,000]

	Scripps-Howard		Taft	
	Reported	Cash	Reported	Cash
Ratio	20.0×	16.7×	20.7×	14.9×
Derived Value for TBSC	$23,600,000	$25,384,000	$24,426,000	$22,648,000

If the values derived by using Scripp's price ratios were adjusted for that company's excess cash, the values would be $21,712,000 and $23,408,000, respectively.

Based on estimated 1963 results for TBSC of $1,584,000 of net earnings and $2,144,000 of cash flow and applying the current ratios of Scripps and Taft (current prices related to 1962 earnings) the following values are obtained:

[2277]

	Scripps-Howard		Taft	
	Reported	Cash	Reported	Cash
Ratio of Current Price to 1962 Earnings	18.5 x	15.6 x	17.2 x	12.9 x
Derived Value [1]	$29,304,000	$33,446,000	$27,245,000	$27,[illegible],000
Ratios Adjusted for Excess Cash	17.1 x	13.9 x		
Derived Value [1]	$27,067,000	$29,802,000		

[1] The above derived values would only be valid, of course, if it were correct to assume that no increase in earnings is expected for Scripps and Taft in 1963 over 1962.

A value may also be derived by using the 4.5% yield and the 80% payout of Scripps-Howard. 80% of the $1,136,000 net income of TBSC would provide a dividend of $909,000 and a yield of 4.5% on a derived market value of $20,200,000. Applying the same rates to estimated earnings of $1,584,000 for 1963 produces a dividend of $1,268,000 and a derived value of $28,178,000.

A "rule of thumb" method of valuation is to assign a value of $10 for each television household in the station's market area provided the station is in the top twenty markets. The following table gives Hartford's rank as well as Los Angeles for comparison:

Television market rankings (as of Jan. 1, 1962)

	A.R.B. net weekly circulation	Rank	Total homes	Rank	Television households	Rank
Los Angeles	2,615,800	2	3,169,200	2	2,931,200	2
Hartford-New Haven	627,100	16	1,895,500	11	1,417,700	12

With 1,417,700 television households in the area, the television portion of TBSC is worth $14,177,000. As the television portion provides 85% of the income, on a 100% basis the total value is approximately $17 million.

Scripps-Howard with 2,839,000 television households in its market area has a market value of $58,247,000. After deducting $5,144,000 of excess cash, the balance of $53,103,000 which includes the value of Scripps' radio stations, is equivalent to about $18.70 per television household. Multiplying TBSC's 1,417,700 television households by $18.70 yields a "rule of thumb" value of $26,500,000.

[2278] *Summary and Opinion*

The different determinants have provided values for TBSC ranging from approximately $20,000,000 to $26,000,000 based on past earnings, and values of approximately $25,000,000 to $30,000,000, based on estimated results for 1963.

Although the growth record and profitability of TBSC in the past has been very good, the station is located in what may be considered a mature area and future potential will be limited to normal population increases and continuing viewers' acceptance of the stations' programs. TBSC lacks the geographic diversification of a chain broadcaster and cannot spread overhead among many stations. To develop a chain broadcasting system at the present time may be expensive and difficult. Lee Loevinger, former anti-trust chief of the Justice Department, a newly appointed commissioner of the FCC, in a recent speech

came out strongly for a re-evaluation of multiple ownership, duopoly and newspaper ownership yardsticks. Loevinger gave maximum priority in his stated program to maximum diversity and dispersion of station ownership. He stated that in considering multiple ownerships the Commission should not count by arbitrary categories but should consider all other interests and affiliations in the communications field. He further stated that it makes on sense to say that a man with seven small AM stations cannot acquire an eighth, although the same station may be acquired by a corporation with seven TV stations, seven FM stations and six large AM stations plus a string of newspapers.

In view of the foregoing, and taking into account that current market prices for television stocks are at or near an all-time peak, a value of $25 million for TBSC may be considered fair and equitable in our opinion. A value of $25 million is equivalent to:

22×1962 earnings
15×1962 cash earnings
21.2×1960–62 average earnings
16.4×1960–1962 average cash earnings
15.8×1963 estimated earnings
11.7×1963 estimated cash earnings
360% of book value (including intangibles) at August 31, 1963

Federal Regulation

Television and radio broadcasting are subject to the jurisdiction of the FCC under the Communications Act of 1934. The Act empowers the FCC, among other things, to issue, revoke or modify broadcasting licenses, to determine the location of stations, to regulate the equipment used by stations, to adopt such regulations as may be necessary to carry out the provisions of the Act and to impose certain penalties for violation of such regulations.

Broadcasting licenses may be granted for a maximum period of three years and are renewable for additional maximum three-year periods upon application and approval. When a

renewal application is pending, the Act, as interpreted by the FCC, permits a new applicant to file for the frequency in use by the renewal applicant, and entitles the new applicant to a hearing in competition with the renewal application. The Act also prohibits the transfer of a license or the transfer of control of a [2279] licensee without approval of the FCC. No license may be held by a corporation of which more than 20% of the capital stock is owned of record or voted by aliens or which is subject to alien management or control to the degree specified in the Act.

For many years the FCC's multiple ownership regulations have provided that a license for an AM radio, FM radio, or TV station will not be granted (a) if the applicant already owns, operates or controls or has an interest in another station of the same type which provides service to substantially the same area as a station owned, operated or controlled by the applicant; or (b) if the grant of the license would result in the applicant's owning, operating or controlling or having an interest in more than seven AM stations, more than seven FM stations, or more than seven television stations, not more than five of which may be VHF television stations. Under multiple ownership regulations the FCC has recently proposed the adoption of a rule which would require dismissal of an application when the applicant already had the maximum number of permitted stations. The effect of such a rule, if adopted, would be to require an applicant to dispose of one of its stations before making application for another station in the same class, contrary to the present practice the Commission follows of conditioning the grant of a license upon disposal of an existing ownership interest.

The FCC and Congressional committees have recently conducted investigations into certain practices and programming policies of the broadcasting industry. The FCC also has under study methods of promoting the development of UHF television operations. Studies are also being made by the FCC of problems of overcrowding of AM radio facilities and of a proposed new allocation table based on mileage separation for FM

radio stations. Pending completion of the latter studies, no applications are being processed for new or changed AM facilities, or for new FM radio stations which do not meet the proposed separation requirements, except in certain special situations.

Network Affiliation and Advertising

In general, network affiliation contracts provide that the network will offer to the affiliated station a variety of network programs, both sponsored and unsponsored with respect to which the station has the right of first refusal as against any other television station located in its community, and grant to the network an option during certain specified hours to require the station to broadcast commercial network programs which the network has sold to advertisers. In 1960 the FCC amended its television network regulations to reduce from three, to two and one-half, the hours in each of four segments of each day which a station may option to a network. In May, 1963, the FCC banned the option time provisions between television networks and their affiliates, effective September 10, 1963. The order prohibits television networks from having a call, or option, on the time of station affiliates.

A typical network affiliation contract provides that the station waive any payment for the first twenty to thirty hours per month of network commercial programs to defray the cost of distribution via AT & T relay facilities. For all network programs carried in excess of this free time, the station receives around one-third of its hourly charges from the network and the network bills the advertiser and retains the balance. Charges for an hour of prime evening time range from a few [2280] hundred dollars for a small community station to $10,000 or more in New York City. TBSC's network rate was raised from $1,900 to $2,000 effective September 15, 1963.

Gross time sales are subject to various discounts. Major purchasers of time periods can receive discounts on total time bought up to 32½%. Of the remainder, advertising agencies, which do all of the purchasing of time periods for advertisers, can obtain discounts of 15% for time sold. In addition, com-

missions for services performed are paid to advertising agencies, station representatives and other salesmen.

[*Federal Communications Commission* Exhibit No. J-139; presented by Justice Dept.]

[2300] INTERNATIONAL TELEPHONE AND TELEGRAPH CORPORATION,
October , 1963.

THE TRAVELERS INSURANCE COMPANY,
700 Main Street,
Hartford 15, Connecticut.

DEAR SIRS: International Telephone and Telegraph Corporation (ITT) is engaged, directly and through subsidiaries in the United States and 48 other countries, in the manufacture, sale, installation and maintenance of communications, electronic and electrical equipment and supplies, and the operation of telephone, radiotelephone, cable and radiotelegraph facilities.

We desire to engage in broadcasting by television and radio in the United States. We recognize that your wholly-owned subsidiary, The Travelers Broadcasting Service Corporation (TBSC), operating such broadcasting stations at Hartford, Connecticut, is outstanding in management and in its record of accomplishment in the public interest. We believe that because of our specialized world-wide operations in electronics and telecommunications we can not only continue such excellent service but are in a position to improve it.

Accordingly, we hereby offer to purchase from you the entire 1,000 shares, $100 par value, issued and outstanding capital stock of TBSC in consideration of issuing to you $35,000,000 principal amount ITT —% Convertible Subordinated 20-year Debentures, to be issued under an Indenture between ITT and a corporate trustee in New York, New York, to be designated; to be convertible, beginning — year after the date of issuance of the Debentures, into capital (common) stock of ITT at $—— per share, subject to adjustment of the conversion price under the same circumstances provided in the Indenture, dated May 15, 1958, relating to ITT's presently outstanding 4⅞% Convertible Subordinated Debentures, due May 15, 1983; to be sub-

ordinated to the same extent and manner as the 4⅞% Convertible Subordinated Debentures as set forth in the Indenture relating thereto; to be redeemable __ years from the date of issuance at __% [2301] of principal amount and interest and thereafter at decreasing premiums to maturity; and to have such other provisions and covenants as may be mutually agreed upon.

You represent to us that you are acquiring the Debentures for your own account for investment and not with a view to the distribution or resale thereof, provided that you reserve the right to dispose of all or any part of such Debentures if at some future time it becomes advisable to do so. We agree, upon your request at any time after the Debentures become convertible, to apply for listing of them on the New York Stock Exchange and of the capital stock issuable upon their conversion.

We agree to continue Paul W. Morency as President and Chief Executive Officer of TBSC, with full operating power under control of a new Board of Directors representing ITT; and that the officers and employees of TBSC will enjoy salary and other employee benefits not less favorable than those existing on the closing date.

We have been furnished with the report, dated September 26, 1963, of Lybrand, Ross Bros. & Montgomery, Certified Public Accountants, stating that in their opinion the audited Balance Sheet of TBSC (accrual basis) as of August 31, 1963, and the Statement of Income for the 8 months ended thereon do-not-differ materially from-the-unaudited statements previously supplied us for those periods, except for the adjustments normally made in converting the Balance Sheet from a cash basis to an accrual basis; and that these statements present fairly the financial position of TBSC, as of August 31, 1963, and the results of operations for the 8 months then ended in conformity with generally accepted accounting principles. You have agreed that on the "accounting closing date" (as hereinafter defined), TBSC's Balance Sheet (accrual basis) prepared consistently with that of August 31, 1963, will show an excess of current [2302] assets over current liabilities and, specifically,

that cash and/or U.S. Treasury bills will cover all accrued liability for taxes (Federal, State and local); that the balance of Retirement Plan Prior Service Liability of TBSC will be completely funded, creating a prepaid asset (probably about $750,000); and that TBSC will have no funded debt. You have also agreed to hold TBSC and/or ITT harmless from any undetermined or unknown liability arising prior to the closing date and not disclosed on the Balance Sheet.

Sale and transfer of the TBSC stock shall take place in 1964 or such later time as may be mutually agreed upon but, in any event, during the time limit required or permitted by the Federal Communications Commission following its approval. The "Accounting Closing Date" shall be as of the end of the month next preceding such sale and transfer. The Debentures shall be dated as of the first day following such Accounting Closing Date and interest shall accrue therefrom and, subject to the above requirement as to the amount and quality of current assets, we will have no claim on earnings accruing subsequent to December 31, 1963 and prior to such Accounting Closing Date. Convertible Subordinated Debentures, and to approval by the Federal Communications Commission.

The parties agree to proceed as rapidly as possible to prepare and execute a definitive contract covering the sale of TBSC stock, to file an appropriate application with the FCC for approval of the sale and transfer of the stock and to take all other steps necessary and appropriate in the premises. Among other things, it is intended that the name of TBSC and the call letters of its stations will be changed.

If the above correctly sets forth your understanding of our agreement, [2303] will you kindly execute the enclosed carbon copies of and advise us that you have done so.

Yours very truly,

INTERNATIONAL TELEPHONE AND TELEGRAPH CORPORATION,

By ....

Accepted, October , 63

The Travelers Insurance Company.

By ....

[*Federal Communications Commission* Exhibit No. J–142; presented by Justice Department]

[2317] INCOMING SYSTEM MESSAGE

(FOLLOWING RECEIVED CODED)

To: Graham.
From: Geneen.
Date: September 17, 1963.

Jack, Al Freedman will call you this morning stop Reviewing your comments of last night with him it appears that under no circumstances should we offer convertible securities paying more than four percent of any kind as this would create problems for the past issues as well as precedencies for the future of our whole program stop

In addition we should not issue non convertible securities for more than four and a half percent as this also will create problems for our future planning stop

Freedman feels strongly that four percent taking precedence ahead of the common and preferred would certainly sell above par stop Repeat above stop

Further that conversion privilege is worth far more than the modest reduction in income which they would suffer particularly [2318] as that income will be considerably improved in quality due to its prior position over period of next twenty years as against earnings derived from the operations etc. stop The fact that it has gone up another 85,000, I do not think changes this since the values of conversion are considerably more than this stop

Al feels that the conversion privilege should move from sixty five to sixty seven at the end of two years with successive steps upward the longer held stop I would suggest you get his ideas on this formula direct from him stop

I would feel that we should press strongly for our own suggested answer plus Freedman's step formula on the conversion as the offer is indeed generous and perhaps it is only at fault because it was not preceded by a period of haggling stop

Believe Freedman proposed study important and should be

carried out stop He points out that revenues in relation to net are very low in this particular situation and further it would appear that local sales exceed sales of incoming material by an unusual percentage. Be sure and check that this is not attributable to the prestige of the parent and might be reduced under different sponsorship stop

[2319] My feeling is we should trade hard at this point having been generous and my feeling is this is largely exploratory on their part stop

Assume you have cleared questions with Brittenham re possible local telephone conflict.

GENEEN.

Original to Mr. J. Graham.

[*Federal Communications Commission* Exhibit No. J-144; presented by Justice Department.]

[2324] MILLARD B. DEUTSCH & COMPANY,
"INDUSTRIAL AMERICA," INCORPORATED,
Chicago 4, Illinois, February 28, 1962.

Personal & Confidential

MR. H. S. GENEEN, President
International Telephone and Telegraph Corp.
320 Park Avenue
New York 22, New York

DEAR MR. GENEEN: We have recently been in contact with the President and majority shareholder of a radio-television broadcasting operation, who has indicated that he might not be averse to exploring the possibility of an affiliation between his company and a larger, publicly held corporation, where a real mutuality of interests could be established.

We are therefore taking the liberty of writing to inquire if your company might be interested in getting into the radio-television broadcasting field, possibly utilizing this operation as the nucleus for a chain of such stations, which these people would be happy to assist in putting together.

This operation has consistently shown earnings in the middle six figures after taxes,—and is currently carrying several mil-

lion dollars in excess cash,—so any transaction involving this company would run well into eight figures.

We will appreciate having your reaction to this suggestion,—and of course will be happy to supply complete details upon learning of your potential interest in this situation. Thank you.

Cordially yours,

MILLARD B. DEUTSCH, *President.*

[*Federal Communications Commission,* Exhibit No. J–145; presented by Justice Department.]

[2325] MILLARD B. DEUTSCH & COMPANY,
"INDUSTRIAL AMERICA," INCORPORATED,
Chicago 4, Illinois, May 20, 1963.

Personal and Confidential

MR. HAROLD S. GENEEN, *President,*
International Telephone and Telegraph Corp.,
New York 22, New York.

DEAR MR. GENEEN: The chief executive and major stockholder of a long-established and highly successful television and AM–FM radio operation has indicated to us that he would not be averse to exploring the possibility of an affiliation between his company and a larger corporation, in which there would be a real mutuality of interests, and where the dynamics of the situation would be greater than that represented by the broadcasting industry alone.

It is his thought that his company would serve as the nucleus for a full chain of stations, which he would be glad to assist in putting together, and his experience and reputation in the industry would undoubtedly be of inestimable benefit in this regard.

Briefly, this one operation has consistently earned \$650,000 to \$700,000 net after taxes annually,—and will undoubtedly run to the upper side of the range this year,—and the company carries a current cash surplus of \$4 million.

If this type of situation proves of interest to your company, we are confident that we can develop a type of transaction, probably using a combination of a convertible preferred and common stock, that would be acceptable to the sellers, and would at the same time make a substantial contribution towards the per-share earnings of your common stock, while also serving as the start of a much larger activity in the broadcasting field, through the acquisition of additional stations.

Thank you for your consideration,—and we will appreciate receiving your reaction to this suggestion at your early convenience.

Cordially yours,

______________________,

MILLARD B. DEUTSCH,
President.

[Federal Communications Commission Exhibit No. J-146; presented by Justice Dept.]

[2326] MILLARD B. DEUTSCH & COMPANY,
"INDUSTRIAL AMERICA," INCORPORATED,

Chicago 4, Illinois, June 21, 1963.

Personal & Confidential
MR. STANLEY LUKE,
Assistant Vice President,
International Telephone and Telegraph Corporation,
New York 22, New York.

DEAR MR. LUKE: I am pleased to enclose herewith a letter written me by Mr. Harold F. Gross, in response to a letter which I wrote him, outlining the proposal contained in my letter to you of June 6, 1963,—and enclosing the material which you sent me on June 11, 1963.

As you can see, Mr. Gross is quite willing to discuss this proposal at their next Directors' meeting,—but before doing so, would naturally like to clarify the personal aspect of any relationship which might develop between your two companies.

I will, therefore, await your word as to how you would like to proceed further with this matter,—and I can assure you that both Mr. Gross and I will be happy to cooperate to the best of our ability in whatever arrangements you might want to set up for bringing the principals together.

Thank you for your continued interest,—and all good wishes.

Cordially yours,

MILLARD B. DEUTSCH,
President.

[*Federal Communications Commission* Exhibit No. J-147 presented by Justice Department]

[2327] GROSS TELECASTING, INC.

PRELIMINARY STUDY—JUNE 6, 1963

[2328] *Sales and earnings report*

[In millions of dollars]

	Sales	Earnings	%	Earnings per Common Share
Year ending 12/31:				
1962	2.450	.663	27.1	1.66
1961	2.348	.583	24.8	1.46
1960	2.454	.640	26.1	1.60
1959	2.563	.672	26.2	1.68
1958	2.770	.766	27.7	1.91
1957	2.734	.674	24.7	1.68
1956	2.815	.742	26.4	1.85
1955	2.608	.725	28.2	1.81
1954	2.242	.639	28.5	1.60
1953	1.857	.420	22.6	1.06

* * * * * * *

	Sales	Earnings	Percent	Earnings per Common Share
For 3 Months Ending 3/31:				
1963	.635	.164	25.8	.41
1962	.549	.139	25.3	.35

Gross Telecasting Inc.

[2329] *Comparative earnings report, year ending 12/31*

[In millions of dollars]

	1962		1961	
	Amount	Percent	Amount	Percent
Net Sales	2.450	100.0	2.348	100.0
Cost of Sales	.568	23.2	.528	22.5
Gross Profit on Sales	1.882	76.8	1.820	77.5
Selling, etc. Expenses	.729	29.8	.761	32.4
Income on Sales	1.153	47.0	1.069	45.1
Other Income	.160	6.5	.144	6.1
	1.313	53.5	1.203	51.2
Other Expenses	----------	----------	----------	----------
Income before Taxes	----------	----------	----------	----------
Income Taxes	.650	26.5	.620	26.4
Net earnings	.663	27.0	.583	24.8

[2330] *Consolidated balance sheet, as of 12/31*

[In millions of dollars]

	1962	1961
Assets:		
Cash & Marketable Securities	3.5	4.0
Receivables, net	.3	.2
Property, net	.7	.7
Investment	.7	----------
Other Assets	.1	.1
Total assets	5.3	5.0
Liabilities:		
Accounts Payable	.1	----------
Accruals	.1	.2
Income Taxes (inc. Deferred)	.4	.4
Total liabilities	.6	.6
Shareholders' equity:		
Common Stock	.4	.4
Retained Earnings	4.3	4.0
Total equity	4.7	4.4
Total liabilities & equity	5.3	5.0

[2331] Capitalization:

Common Stock: 200,000 Shares $1 Par (600,000 Shares Authorized)	$200,000
Class "B" Common Stock: 200,000 Shares $1 Par, authorized & issued	200,000
(Dividend restriction applies on Class B stock thru 1964; is convertible 3/31/64 for common on a share-for-share basis)	
Retained Earnings	4,306,632
Total	$7,706,632

Book Value per Common & Class B Common Share: $11.77.

Share-holders:

Common: 1750.

Class B: 7.

(Gross family owns 98.8% of Class B & 3.9% of Common)

Price/Earnings Ratio: 15.

Book Value/Earnings Ratio: 7.

[2332] Incorporated 1937 in Michigan.

Acquired radio station WJIM from H F Gross at incorporation, station started operations in 1934. Station is a CBS outlet operating at 1,000 Watts; located in Lansing, Michigan. Acquired FM license and started FM broadcasts in 1960. Operates WJIM-TV transmitting at 25,000 watts, affiliated with ABC & CBS basic networks.

Television contributes 90% of gross revenue, radio 10%.

Offices, studios, and transmitters are located in Lansing, Michigan, in a building containing 26,000 square feet.

Employees: 70.

[2333] *Estimates of Earnings Dilution*

Several bases for offers to acquire Gross Telecasting are explored in the following computations to determine:

a) the effect on ITT 1962 earnings per common share; and

b) the effect on dividends to present shareholders.

Basic data and assumptions

	ITT	Gross
Outstanding shares 12/31/62	16,496,956	400,000
1962 Earnings (after Pref. Dividends)	40,075,000	662,648
1962 Earnings per common share	2.43	1.66
Market (NYSE W-OTC 5/31/63)24B and 25⅛ A	50	25
Current Indicated Annual Dividend Rate [1]	1.00	[2] .95

[1] 1961 and 1962 Dividends: $1.60 on 200,000 Common Shares, $320,000; $0.30 on 200,000 Class B Shares, $60,000.

[2] Average.

(a) All Common—Current Market ($10,000,000=15×1962 Earnings) (.5 share of ITT for each share of Gross or 1 share ITT for each 2.0 shares of Gross)

	ITT	After Acquisition	Combined
Shares Outstanding	16,496,956	200,000	16,696,956
Earnings (after Pref. Div.)	$40,075,000	$662,648	$40,737,648
Earnings per Share	2.43	3.31	2.44
Dilution per Share			+.01
Equivalent ITT Dividend Rate		.50	

(b) 25% Premium—Current market ($12,500,000=19 ×1962 Earnings)

All Common .625 Share of ITT for each share of Gross; on 1 share ITT for each 1.60 shares of Gross

	ITT	After Acquisition	Combined
Shares Outstanding	16,496,956	250,000	16,746,956
Earnings (after Pref. Div.)	$40,075,000	$662,648	$40,737,648
Earnings per Share	2.43	2.65	2.43
Dilution per Share			
Equivalent ITT Dividend Rate av		.63	

[2334] (c) 25% Premium Current Market ($12,500,000 ×19=1962 Earnings)

Premium In 4% Prepared: $2,500,000=25,000 Shares $100 Par

Balance In Common: $10,000,000=200,000 Shares

	ITT	After Acquisition	Combined
Shares Outstanding	16,496,956	200,000	16,696,956
Earnings (after Pref. Div.)	$40,075,000	$562,648	$40,637,648
Earnings per Share	2.43	2.81	2.43
Dilution per Share	----------------	------------	----------------
Equivalent ITT Dividend Rate	----------------	.75	----------------

(d) 25% Premium=$31.25/Share=17.9×1962 Earnings Current Market (12,500,000=19×1962 Earnings)

50% In 4% Preferred: $6,250,000=62,500 Shares $100 Par (Div'd=$250,000)

50% In Common: $6,250,000=125,000 Shares (Div'd =125,000)

	ITT	After Acquisition	Combined
Shares Outstanding	16,496,956	125,000	16,621,956
Earnings (after Pref. Div.)	$40,075,000	$412,648	$40,487,648
Earnings per Share	2.43	3.30	$2.44
Dilution per Share	----------------	------------	+.01
Equivalent ITT Dividend Rate	----------------	.94	----------------

NOTE.—Dividend On Preferred=$1.25 Per Share.
Dividend On Common=$0.625 Per Share.

(e) at 30% above Current Market ($32.50/sh—$13,000,000—196×1962 earning)

½ 4% Ref. 6,500,000 @ $100 Per=65,000 (dividend)	$260,000
½ Common 6,500,000 @ 50/sh=130,000 sh	130,000
	390,000

	ITT	After Acquisition	Combined
Shares Outstanding	16,496,956	130,000	16,626,956
Earnings (after Pref. Div.)	40,075,000	402,648	40,477,648
Earnings per Share	------------	------------	2.43
Dilution per Share	------------	------------	------------
Equivalent ITT Dividend Rate	(1)	.975	------------

[1] Average.

or:

32.50 in preferred 40%=1.30 per sh.
32.50 in common=.65 per sh.
$700,000 × 18.6=$13,000,000.

[2335] An offer to acquire Gross Telecasting, Inc. is explored in the following computations to determine as of October 21, 1963 and December 10, 1963:

a) the effect on ITT 1963 earnings per common share; and

b) the effect on dividends to present Gross Shareholders.

1. Basic data and assumptions as of October 21, 1963

	ITT	Gross
Outstanding shares 12/31/63	18,405,000	400,000
1963 Earnings (after Pref. Div.)	$49,625,000	$700,000
1963 Earnings per common share	$2.70	$1.75
Market (NYSE 10/21/63)	50	28¼ (B-27) (A-25-½)
Indicated Annual Dividend	1.00	[1] $1.60 [2] .30

[1] Class A.
[2] Class B.

Proposal: $32.50/sh.=$13,000,000; 18.6×Projected 1963 earnings

50% in 4% Pref.—$6,500,000 @ $100 Par=65,000 shares; Div. $260,000.

50% in Common—$6,500,000 @ $50./sh.=130,000 shares.

	ITT	After Acquisition	Combined
Shares Outstanding	18,405,000	130,000	18,535,000
Earnings (after Pref. Div.)	$49,625,000	$440,000	$50,065,000
Earnings per Share	$2.70	$3.38	$2.70
Dilution per Share			No dilution
Equivalent ITT Dividend Rate		Class A $1.30; Class B .65	

2. Basic data and assumptions as of December 10, 1963

	ITT	Gross
Outstanding shares 12/31/63	18,405,000	400,000
1963 Earnings (after Pref. Div.)	$49,625,000	$700,000
1963 Earnings per common share	$2.70	$1.75
Market (NYSE 12/10/63)	$54-5/8	$25-7/8 (B-24-3/4; A-27)
Indicated Annual Dividend	$1.00	Class A $1.60; Class B .30

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Proposal: $32.50/sh.=$13,000,000; 18.6×Projected 1963 earnings

50% in 4% Pref.—$6,500,000 @ $100 Par=65,000 shares; Div. $260,000.

50% in Common—$6,500,000 @ $54⅝ sh.=118,994 shares.

	ITT	After Acquisition	Combined
Shares Outstanding	18,405,000	118,994	18,523,994
Earnings (after Pref. Div.)	$49,625,000	$440,000	$50,065,000
Earnings per Share	$2.70	$3.70	$2.70
Dilution per Share	----------------	----------------	(1)
Equivalent ITT Dividend Rate:			
Class A	----------------	$1.30	----------------
Class B	----------------	$0.50	----------------

[1] No dilution.

[2337] [Federal Communications Commission Exhibit No. J-148; presented by Justice Department]

MILLARD B. DEUTSCH & CO.,
Chicago, Ill., June 6, 1963.

Air Mail
Personal and Confidential
MR. STANLEY LUKE,
Assistant Vice President, International Telephone & Telegraph, New York, N.Y.

DEAR MR. LUKE: Thank you very much indeed for your phone call of Monday, June 3rd, expressing interest in the television and radio broadcasting operation about which I wrote Mr. Geneen on May 20th.

In accordance with our discussion, I am enclosing herewith a copy of the 1962 Annual Report for Gross Telecasting, Inc., as well as their report for their first quarter of 1963, together with resumé of their annual stockholders meeting held on March 26, 1963.

From this, as well as from the historical data which you might have gleaned from Moodys or Standard and Poor, this has been a highly successful operation for many years, and will undoubtedly continue to be,—but Mr. Gross realizes that for real

growth, it would be well for him to be associated with a larger company, like yours, in which he would play a leading role for the next five years or so, in putting together a full chain of stations, that would contribute to a significant portion of your total income.

Based on his anticipated earnings of $700,000 or more net for 1963, and considering the fact that all 200,000 of the Class "A" shares of his company are in the hands of the public, whereas he personally holds all 200,000 of the Class "B" shares (which are convertible to Class "A" shares at his option), I have tried to come up with a type of transaction that would be of interest to both classes of Gross shareholders, and would at the same time make a worth-while contribution to your common per-share earnings.

As you will see, the class "A" shareholders have been receiving dividends of $1.60 per share for many years, involving a total of $320,000 on the 200,000 shares outstanding. To give them an equivalent dividend income using say your 4% cumulative Series C convertible preferred stock would involve around 8 million dollars, and if Mr. Gross, who is not [2338] too interested in ordinary income—but would prefer the appreciation opportunities represented in your common stock—were to obtain an equal amount of your common stock, this might be fine for them, but I don't feel would provide the sort of per-share income that you should have.

I have therefore arbitrarily established a figure of around $3.00 per share as the contribution which this operation should make, both before and after conversion—and on this basis, this would involve around 6.5 million dollars each of your 4% Series C cumulative convertible preferred stock ($100 par), and your common stock, with the convertible preferred going to Gross Class "A" shareholders and the common (approximately 130,000 shares) to the Class "B" shareholders (Harold Gross). Although the dividend income to the Class "A" shareholders would obviously be reduced from their current level, I think they could be persuaded that the increase in market value would more than make up for this.

Of course, in these computations, I have based my assumptions on the complete conversion of the convertible preferred stock, but as is obvious, and depending on the call, provisions of your convertible preferred stock, you could get further tremendous leverage on the per-share earnings of the common stock issued in this transaction, if you were to use some or all of the surplus cash to call the preferred stock issued, either in whole or in part.

Incidentally, you might want to keep their investment in the debentures of Aero Geo Astro Corporation, if that company looks good to you, and the business interests you,—or you might want to cash it in and utilize the money in other ways—in which event I feel certain that firms like Electro-Science Investors, Electronics Capital Corporation, and others who specialize in investments of this type, would prove to be willing buyers.

I hope this type of thinking will strike a responsive chord with your company,—and that we can soon develop this situation into a transaction that will prove mutually pleasant and beneficial for all parties concerned. I will appreciate hearing further from you at your early convenience,—and would welcome receipt of at least two copies of your last Annual Report and interim statement, so that I can send one on to Mr. Gross, and retain the other in my files.

Thank you again for your interest and consideration, and all good wishes.

Cordially yours,

MILLARD B. DEUTSCH, *President.*

[2339] [*Federal Communications Commission* Exhibit No. J–149; presented by Justice Department]

MILLARD B. DEUTSCH & CO.,
Chicago, Ill., July 15, 1963.

Personal and Confidential

MR. HAROLD F. GROSS,
President, Gross Telecasting, Inc., Lansing, Mich.

Dear Hal: In accordance with our phone conversation of Thursday, July 11th, I called Mr. Luke at IT&T, to advise him of the fact that your Board of Directors had authorized you to

proceed with the investigation of a possible affiliation between your two companies,—and that to this end, you and Mr. Skinner would like to meet with the IT&T people in New York, at some mutually convenient time after July 24th.

Mr. Luke indicated that he is going to the west coast again on the Cannon Electric Co. matter, and that Mr. John Graham, whom he would also like to have in on such a meeting, will be in Europe for practically the balance of the month of July,—so it looks as though it will be early August before our meeting can be arranged.

We therefore agreed that Mr. Luke will call me on Thursday, August 1st, to try to set a definite date at that time,—or if both he and Mr. Graham find themselves together in New York before then, that he will contact me at that time, to try to set up appropriate plans.

Obviously, as soon as I hear from Mr. Luke, I will be in touch with you, Hal. Meanwhile,—kindest personal regards,—and all good wishes.

Cordially yours,

MILLARD B. DEUTSCH, *President.*

[2340] [*Federal Communications Commission*, Exhibit No. J-150; presented by Justice Department]

MILLARD B. DEUTSCH & CO.,
Chicago, Ill., August 6, 1963.

Personal and Confidential

Mr. Harold F. Gross,
President, *Gross Telecasting, Inc.*,
Lansing, Mich.

DEAR HAL: I again called Mr. Luke at IT&T on Friday, August 2nd, to see whom we might get together with them in New York,—but found that he and Mr. Graham have been completely involved in their just-announced acquisition of John J. Nesbitt, Inc.,—and that Mr. Geneen has been in Europe,—so that he just hasn't been able to set a specific date as yet.

However, Mr. Luke has assured me of their continuing interest in going into the matter with you,—and says that as soon

as he can firm up a definite appointment with his people, that he will phone me accordingly, whereupon I will then contact you.

Until then,—kindest personal regards.

Cordially yours,

MILLARD B. DEUTSCH, *President.*

[2341] [*Federal Communications Commission,* Exhibit No. J–151; presented by Justice Department]

MILLARD B. DEUTSCH & CO.,
Chicago, Ill., August 20, 1963.

Air Mail
Personal and Confidential
MR. STANLEY LUKE,
Assistant Vice President,
International Telephone & Telegraph Corp.,
New York, N.Y.

DEAR MR. LUKE: It appears that I will be in the New York area the latter part of the week of September 2nd,—and I am therefore wondering if it might be possible to arrange for your meeting with Messrs. Gross and Skinner at that time, say Wednesday or Friday, September 4th or 6th.

Of course, I haven't as yet checked these dates out with these gentlemen, but if you find that one of them will work out for your people, and will advise me accordingly as quickly as possible, I will do my best to confirm without delay.

I hope we can get together soon,—and meanwhile extend all good wishes.

Cordially yours,

MILLARD B. DEUTSCH, *President.*

[2342] GROSS TELECASTING, INC.

PRELIMINARY STUDY

June 6, 1963.

[2343] *Sales and earnings report*

[In millions of dollars]

	Sales	Earnings	Percent	Earnings per Common Share
Year ending 12/31—				
1962	2.450	.663	27.1	1.66
1961	2.348	.583	24.8	1.46
1960	2.454	.640	26.1	1.60
1959	2.563	.672	26.2	1.68
1958	2.770	.766	27.7	1.91
1957	2.734	.674	24.7	1.68
1956	2.815	.742	26.4	1.85
1955	2.608	.725	28.2	1.81
1954	2.242	.639	28.5	1.60
1953	1.857	.420	22.6	1.06

* * * * * * *

	Sales	Earnings	Percent	Earnings per Common Share
For 3 months ending 3/31—				
1963	.635	.164	25.8	.41
1962	.549	.139	25.3	.35
6 mo. 1963	1.315	.345		
	1.145			
Sept. 30	1.950	.504		
	1.690	.415		

[2344] *Comparative earnings report, year ending 12/31*

[In millions of dollars]

	1962		1961	
	Amount	Percent	Amount	Percent
Net Sales	2.450	100.0	2.348	100.0
Cost of Sales	.568	23.2	.528	22.5
Gross Profit on Sales	1.882	76.8	1.820	77.5
Selling, etc. Expenses	.729	29.8	.761	32.4
Income on Sales	1.153	47.0	1.059	45.1
Other Income	.160	6.5	.144	6.1
	1.313	53.5	1.203	51.2
Other Expenses				
Income before Taxes				
Income Taxes	.650	26.5	.620	26.4
Net earnings	.663	27.0	.582	24.8

[2345] *Consolidated balance sheet, as of 12/31*

[In millions of dollars]

	1962	1961
Assets:		
Cash & Marketable Securities	3.5	4.0
Receivables, net	.3	.2
Property, net	.7	.7
Investment	.7	------
Other Assets	.1	.1
Total assets	5.3	5.0
Liabilities:		
Accounts Payable	.1	------
Accruals	.1	.2
Income Taxes (inc. Deferred)	.4	.4
Total liabilities	.6	.6
Shareholders' equity:		
Common Stock	.4	.4
Retained Earnings	4.3	4.0
Total equity	4.7	4.4
Total liabilities & equity	5.3	5.0

[2346] *Capitalization:*

Common Stock: 200,000 Shares $1 Par (600,000 Shares Authorized)	$200,000
Class "B" Common Stock: 200,000 Shares $1 Par, authorized issued	200,000
(Dividend restriction applies on Class B stock thru 1964; is convertible 3/31/64 for common on a share-for-share basis)	
Retained Earnings	4,306,632
Total	4,706,632

Book Value per Common and Class B Common Share: $11.77

Share-holders:

Common: 1750

Class B: 7

(Gross family owns 98.8% of Class B and 3.9% of Common)

Price/Earnings Ratio: 15

Book Value/Earnings Ratio: 7

[2347] CALCULATION OF FUNDED DEBT BORROWING CAPACITY AS OF DECEMBER 31, 1962

Total Assets	$5,347,145
Intangibles	104,897
Investment in unconsolidated	754,861
Subsidiaries	859,758
Tangible Assets	4,488,387
Liabilities, total	640,513
Excluding Long-Term Debt	640,513
Net assets	3,847,874
Minority Interest in Consolidated Subsidiaries	----------
Asset Base for Borrowing Capacity	3,847,874
(Divided by Ratio of 2.33:1, Minus 1)	×.75=
Gross Borrowing Capacity	2,885,905
Existent Long-Term Debt	----------
Preferred Stock, Including Subsidiaries	----------
Guarantees of Subsidiary Borrowing	----------
Net Funded Debt Borrowing Capacity	2,885,905

[2348] Incorporated 1937 in Michigan.

Acquired radio station WJIM from HF Gross at incorporation, station started operations in 1934. Station is a CBS outlet operating at 1,000 Watts; located in Lansing, Michigan. Acquired FM license and started FM broadcasts in 1960. Operates WJIM–TV transmitting at 25,000 watts, affiliated with NBC, ABC, & CBS basic networks.

Television contributes 90% of gross revenue, radio 10%.

Offices, studios, and transmitters are located in Lansing, Michigan, in a building containing 26,000 square feet.

Employees: 70.

[2349] ESTIMATES OF EARNINGS DILUTION

Several bases for offers to acquire Gross Telecasting are explored in the following computations to determine:

a) the effect on ITT 1962 earnings per common share; and

b) the effect on dividends to present shareholders.

Basic data and assumptions

	ITT	Gross
Outstanding shares 12/31/62	16,496,956	400,000
1962 Earnings (after Pref. Dividends)	$40,075,000	$662,648
1962 Earnings per common share	$2.43	$1.66
Market (W-OTC 5/31/63—24B & 25¾A	$0.50	$0.25
Current Indicated Annual Dividend Rate	$1.00	[1]$.95

[1] Average.

Note: 1961 & 1962 Dividends:
$1.60 on 200,000 Common Shares—$320,000.
.30 on 200,000 Class B Shares—$60,000.

a) All Common—Current Market ($10,000,000=15×1962 Earnings) (.5 share of ITT for each share of Gross or 1 share ITT for each 2.0 shares of Gross)

	ITT	After Acquisition	Combined
Shares Outstanding	16,496,956	200,000	16,696,956
Earnings (after Pref. Div.)	40,075,000	662,648	40,737,648
Earnings per Share	2.43	3.31	2.44
Dilution per Share			+.01
Equivalent ITT Dividend Rate		.50	

b) 25% Premium—Current market ($12,500,000=19×1962 Earnings)

All Common .625 Share of ITT for each share of Gross; or 1 Share ITT for each 1.60 shares of Gross

	ITT	After Acquisition	Combined
Shares Outstanding	16,496,956	250,000	16,746,956
Earnings (After Pref. Div.)	40,075,000	662,648	40,737,648
Earnings per Share	2.43	2.65	2.43
Dilution per Share			
Equivalent ITT Dividend Rate		.63	

[2350] c) 25% Premium Current Market ($12,500,000=19 ×1962 Earnings)

Premium In 4% Preferred: $2,500,000=25,000 Shares $100 Par

Balance In Common: $10,000,000=200,000 Shares

	ITT	After Acquisition	Combined
Shares Outstanding	16,496,956	200,000	16,696,956
Earnings (after Pref. Div.)	40,075,000	562,648	40,637,648
Earnings per Share	2.43	2.81	2.43
Dilution per Share			
Equivalent ITT Dividend Rate		.75	

d) 25% Premium Current Market (12,500,000=19×1962 Earnings)

50% In 4% Preferred: $6,250,000=62,500 Shares $100 Par

50% In Common: $6,250,000=125,000 Shares

	ITT	After Acquisition	Combined
Shares Outstanding	16,496,956	125,000	16,621,956
Earnings (after Pref. Div.)	40,075,000	412,648	40,487,648
Earnings per Share	2.43	3.30	2.44
Dilution per Share	----------	----------	+.01
Equivalent ITT Dividend Rate	----------	.94	----------

[2351] [*Federal Communications Commission,* Exhibit No. J–152; presented by Justice Department.]

[2351] *Comparison of Gross Telecasting and Travelers*

[Assuming prices of $12,000,000 and $35,000,000]

	Gross		Travelers	
	Dollars	Ratio to cost	Dollars	Ratio to cost
	(A)	(B)	(C)	(D)
1. Common equity, Dec. 31, 1962	4,706,632	2.76	5,565,793	6.29
2. Tangible equity	4,706,632	2.76	3,876,722	9.03
3. Sales, 1962	2,450,167	5.31	6,801,667	5.15
4. Earnings, 1962	662,648	19.62	1,135,696	30.82
5. Sales average, 1959/1962	2,454,000	5.30	5,953,000	5.88
6. Earnings average, 1959/1962	639,500	20.33	1,113,250	31.44
7. 1962 cash flow (earnings before depreciation and amortization costs)	726,506	17.89	1,994,567	17.55

If ratios developed above for gross (in column "B") are applied to corresponding data for Travelers (in column "C") resultant proportional purchase cost for Travelers would be:

1. Common equity, $5,565,793×2.76=$15,361,589
2. Tangible equity, $3,876,722×2.76=$10,699,753
3. Sales, 1962, $6,801,667×5.31=$36,116,852
4. Earnings, 1962, $1,135,696×19.62=$22,282,356
5. Sales, average 1959/1962, $5,953,000×5.30=$31,550,900
6. Earnings, average 1959/1962, $1,113,250×20.33=$22,632,373
7. 1962 cash flow, $1,994,567×17.89=$35,683,161

=Average $24,903,855

If ratios developed for Travelers (in column "D") are applied to corresponding data for gross in column "A") resultant proportional purchase cost for gross would be:

1. Common equity, $4,706,632×6.29=$27,064,715
2. Tangible equity, $4,706,632×9.03=$42,500,887
3. Sales, 1962, $2,450,167×5.15=$12,618,360
4. Earnings, 1962, $662,648×30.82=$20,422,811
5. Sales, average 1959/1962, $2,454,000×5.88=$14,429,520
6. Earnings, average 1959/1962, $639,500×31.44=$20,106,880
7. 1962 cash flow, $726,500×17.55=$12,750,180

=Average $21,776,050

[2352] Travelers Broadcasting Service Corp., Hartford, Conn. Products: Operates WTIC & WTIC–TV. Sales: $6,801.667 (Y/E 12/31/62). Earnings: $1,135,696=16.7%. P/E Ratio: 30.8. Dividend: $50.00. Earnings/Share: $1,136. Market Price: Not Traded; Book Value $5,566. Total Market Cost: $35,000,000; Common Equity; $5,565,793*; Common Shares: 1,000 Funded Debt: $650,000.

Yearend	1962	1961	1960	1959	1958	1957
Sales	6.802	6.070	6.017	4.923	2.515	1.551
Earnings	1.136	1.135	1.270	.912	.069	.022
Percent	16.7	18.5	21.1	18.5	2.3	1.4
Per Share	----------	----------	----------	----------	----------	----------

Gross Telecasting, Inc., Lansing, Mich. Products: Operates WJIM & WJIM–TV. Sales: $2,450,167 (Y/E 12/31/62). Earnings: $662,648=27.1%. P/E Ratio: 15.4. Dividend: ———. Earnings/Share: $1.66. WOTC Market Price: $25.50 (9/20/63); Book Value $11.77. Total Market Cost: $10.200,000; Common Equity: 4,706,632; Common Shares: 400,000; Funded Debt: None.

12/31 Y/E	1962	1961	1960	1959	1958	1957
Sales	2.450	2.348	2.454	2.563	2.770	2.734
Earnings	.663	.583	.640	.672	.766	.674
Percent	27.1	24.8	26.1	26.2	27.7	24.7
Per Share	1.66	1.46	1.60	1.68	1.91	1.68

[2353] [*Federal Communications Commission* Exhibit No. J–153; Presented by Justice Department]

SEPTEMBER 30, 1963.

Mr. HAROLD F. GROSS,
President, Gross Telecasting, Inc.,
Lansing, Mich.

DEAR HAL: In accordance with our conversation this morning, I am indicating below the names of the principal officers of some of our most recent and/or contemplated acquisitions. Feel perfectly free to contact any of these gentlemen:

*Includes $1,689,071 Capitalized Development Costs

Mr. Calvin K. Townsend, Chairman of the Board, Chief Executive Officer & Treasurer, Jennings Radio Manufacturing Corporation, 970 McLaughlin Avenue, San Jose, California. Telephone Co.: Cypress 2–4025 (Area Code 408).

Mr. R. Edwin Moore, Chairman of the Board, Bell & Gossett Company, Morton Grove, Illinois, Telephone No.: YO 6–3700.

Mr. William A. Ray, President, ITT General Controls, Inc., 801 Allen Avenue, Glendale 1, California. Telephone No.: (213) 849–2181.

Mr. Albert J. Nesbitt, Chairman of the Board, John J. Nesbitt, Inc., State Road & Rhawn Street, Philadelphia 36, Pennsylvania. Telephone No.: DE 2–2400.

Mr. Robert Cannon, President, Cannon Electric Company, 3208 Humboldt Street, Los Angeles 54, California. Telephone No.: 225–1251.

Sincerely yours,

STANLEY LUKE, *Vice President.*

[2354] [Federal Communications Commission Exhibit No. J–154; presented by Justice Department]

INTERNATIONAL TELEPHONE & TELEGRAPH CORP.,
October—, 1963.

Mr. HAROLD F. GROSS,
President, Gross Telecasting, Inc., Lansing, Mich.

DEAR MR. GROSS: We submit for your consideration a proposal relating to the transfer of the business and substantially all the assets of Gross Telecasting, Inc. ("Gross") to International Telephone and Telegraph Corporation ("ITT") or a wholly owned subsidiary of ITT as ITT may elect and the assumption by the transferee corporation of substantially all the liabilities of Gross. This proposal is made upon the following terms and subject to the following conditions:

1. Upon such transfer of business and assets ITT will issue and cause to be delivered to Gross for each share of Class B Common Stock ($1.00 par value) .65 and each share of Class A Common Stock ($1.00 par value) of Gross issued and outstanding on the date of such transfer (.65 of a share of the Capital Stock (no par value) of ITT) and (.325 of a share of Cumulative Preferred Stock ($100 par value) of ITT with full voting

rights, carrying a dividend rate of 4% per annum and convertible into ITT Capital Stock at $63.00 per share of Capital Stock.) It is understood that this proposal applies only to shares of Common Stock and Class B Common Stock of Gross issued and outstanding at December 31, 1962, and shares of Common Stock issued prior to such date of transfer on conversion of shares of Class B Common Stock. It is further understood that if, prior to such date of transfer, ITT should—

(a) declare any dividend payable in shares of its Capital Stock, or

(b) issue of transfer from its treasury any shares of its Capital Stock (other than shares issued pursuant to conversion of debentures, notes and preferred stock and the exercise of options outstanding at the date hereof or in connection with the acquisition of the assets of Cannon Electric Company, John J. Nesbitt, Inc. and Gilfillan Corporation or in connection with the exercise of substitute options issued on such acquisitions) for a consideration less than $— a share prior to such date of transfer, or

(c) split or combine its shares of Capital Stock, or

[2355] (d) declare any extraordinary distribution on its shares of Capital Stock prior to such date,

appropriate adjustment will be made in the of a share of ITT Capital Stock issuable in respect of each share of common stock of Gross.

2. This proposal is subject to the following conditions:

(a) ITT, acting through its own managenent personnel, its counsel, its accountants or other representatives designated by it, shall have full opportunity to examine Gross' books and records, to determine the acceptability to it of Gross' titles to properties and the condition of its places and to investigate all aspects of Gross' business and of all its assets and liabilities and ITT shall be satisfied to proceed with this proposal upon completion of such examination and investigation. ITT agrees that should the acquisition contemplated herein not be consummated for any reason. ITT will deliver to Gross all documents, work papers and other material obtained in such investigation

by it or on its behalf and will use its best efforts to keep confidential all information concerning Gross obtained by it or on its behalf in such investigation.

(b) ITT and Gross shall have received favorable opinions on such legal matters in connection with the transaction as they deem pertinent prior to signing the formal agreement referred to below.

(c) The Boards of Directors of ITT and Gross shall have ratified this proposal.

3. As soon as reasonably practicable after acceptance of this proposal, ITT and Gross will enter into a formal agreement. Such formal agreement may require the approval of the Boards of Directors of both parties. In addition, the agreement and the transfer therein provided for will be submitted to the stockholders of Gross for their approval. Gross will call a special meeting of its stockholders for such purpose to be held not later than 120 days after the date of execution of the formal agreement. Pending the execution of the formal agreement Gross will not discuss or negotiate with any other corporation, firm or other person, or entertain or consider any inquiries or proposals relating to, the possible disposition of its business and assets and will conduct its business only in the ordinary course.

4. The formal agreement referred to in paragraph 3 above will among other things—

[2356] (a) set forth certain representations and warranties of Gross with respect to financial statements, litigation, tax and other liabilities, collectibility of all receivables, titles to properties, material contracts, contracts with management, patents, trademarks, undisclosed liabilities and such other items as may bear upon the value acceptability to ITT of the business and assets of Gross and such representations by ITT as Gross may reasonably request, all representations and warranties to survive the closing for twenty-four months;

(b) provide for the calling of a meeting of stockholders of Gross to vote upon the transaction and a meeting of the stockholders of ITT, which may be the next annual or a special meeting, to authorize the additional shares of

cumulative preferred stock necessary to consummate the transaction;

(c) restrict Gross as to the incurring of additional indebtedness for borrowed money, declaring of dividends at a rate in excess of dividends already declared in 1963, granting of stock options, entering into employment agreements with officers or directors, granting other than normal increases in compensation, and entering into material transactions otherwise than in the ordinary course of business;

(d) provide that the transfer of business and assets shall be not later than May 15, 1964;

(e) provide for the receipt by ITT from such stockholders or management personnel of Gross as may be specified by counsel for ITT of underriskings satisfactory to ITT that no distribution will be made by any of such persons of shares of Preferred or Capital Stock of ITT received upon liquidation of Gross or upon conversion of such Preferred Stock except (i) within the limits and in accordance with the applicable provisions of Rule 133 of the General Rules and Regulations under the Securities Act of 1933 prescribed by the Securities and Exchange Commission pursuant to said Act or (ii) by gifts to donees who, or by private sale to persons who, agree to acquire such shares for investment and not for the purpose of resale or with a view to the distribution thereof;

(f) provide for the termination or abandonment of the transaction before or after the meeting of stockholders of Gross:

(i) by mutual consent of the parties' Boards of Directors;

[2357] (ii) by the Board of Directors of either party if in the opinion of such Board there has been a material misrepresentation or a breach of warranty on the part of the other party in the representations and warranties set forth in the formal agreement referred to above;

(iii) by the Board of Directors of either ITT or

Gross if the transaction shall not have been consummated by May 15, 1964;

(iv) by the Board of Directors of Gross if it shall not receive from the Internal Revenue Service a ruling (i) that for Federal income tax purposes, no gain or loss will be recognized to Gross or its stockholders by reason of the transfer of assets contemplated hereby or by receipt of the ITT shares and (ii) that the ITT Preferred Stock will constitute section 306 stock within the meaning of section 306(c) (1)(B) of the Internal Revenue Code of 1954 but, pursuant to the exception contained in section 306(b)(4), section 306(a) will not apply to a sale or disposition by Gross stockholders of such ITT Preferred Stock or any Capital Stock received on conversion thereof;

(v) by the Board of Directors of ITT if the net worth of Gross as set forth in the balance sheet of Gross as of October 31, 1963, certified by Arthur Young & Company as to fairness of presentation and compliance with generally accepted accounting principles, applied on a basis consistent with that of the preceding year, shall be less, in the unqualified opinion of Arthur Anderson & Co., than (x) the net worth of Gross determined on the foregoing basis as shown in the balance sheet of Gross as of December 31, 1962, certified by Arthur Young & Company and reported to Gross' stockholders, plus (y) net income of Gross for the 10-month period ending October 31, 1952, less (z) dividends declared or paid after December 31, 1962;

(vi) by the Board of Directors of ITT if the income of Gross for the 10-month period ending October 31, 1963 certified by Arthur Young & Company as to fairness of presentation and compliance with generally accepted accounting principles applied on a basis consistent with the preceding year, shall in the unqualified opinion of Arthur Anderson & Co. [2358] be less than the net income determined on the foregoing basis of Gross for the 10-month period ending October 31, 1962. If inventories are significant, for the purposes

of giving such opinion, Arthur Anderson & Co. will rely on the certification of Arthur Young & Company as to inventories of Gross as of December 31, 1962;

(vii) by the Board of Directors of either Gross or ITT if such Board shall determine in its sole discretion that the transaction has become inadvisable or impracticable by reason of the institution by state, local or federal governmental authorities of material litigation or proceedings against either or both of the parties;

(viii) by the Board of Directors of ITT in the event that any required approval of federal or state regulatory agencies, including the Federal Communications Commission, is not obtained with respect to the transfer of control and licensed or in the event the stockholders of ITT shall not have authorized the shares of preferred stock necessary to consummate the transaction.

If the foregoing proposal is agreeable to you, and you are prepared to accept it, subject to the approval of Gross' Board of Directors and to recommend it to said Board, would you please so indicate on the copy of this letter enclosed herewith in the space provided, and return the same to the undersigned as soon as you can conveniently do so.

Very truly yours,

INTERNATIONAL TELEPHONE AND TELEGRAPH CORP.,

By ....

Vice President.

Accepted this — day of October, 1963.

GROSS TELECASTING, INC.,

By ....

President.

[2359] [Federal Communications Commission Exhibit No. J-155; presented by Justice Department]

OCTOBER 21, 1963.

Memorandum To: Mr. J. J. Graham.

Subject: Gross Telecasting, Inc.

Hall Gross is planning on calling you the week of November 4th to set up a meeting with Mr. Geneen and yourself. For

your information, the proposed terms of the Gross acquisition are set forth below.

We would pay $13,000,000 for Gross, which represents $32.50 per share. Gross has 400,000 shares of stock outstanding—200,000 A shares practically all in the hands of the public and 200,000 B shares practically all in the hands of the Gross family. For the A shares I propose a 4% preferred, convertible at $65. This represents 65,000 shares of ITT preferred for the 200,000 Gross A shares. For the 200,000 B shares I propose 130,000 shares of ITT common pegged at $50 a share. Based upon a minimum of net income after taxes of $700,000 this year, the above represents 18.6 times 1963 earnings. If you subtract from the $13,000,000 purchase price the $4,000,000 in cash, the price earnings ratio then approximates 13 times earnings and about 11 times cash flow. The applicable calculation, together with the most recent Balance Sheet and P&L Statement of Gross are attached hereto.

STANLEY LUKE.

[2360] Proposal: $32.50/sh. for 400,000 total shares outstanding=$13,000,000 (18.6×projected 1963 earnings)

For 200,000 Class A shares—65,000 shares ITT Pref. $100 Par—$6,500,000 (dividend $260,000)

For 200,000 Class B shares—130,000 shares ITT Common @ $50—$6,500,000

Dilution computation: (Projected 1963 including all acquisitions through Gilfillan)

	ITT	Gross After Acquisition	Combined
Shares Outstanding	18,405,000	130,000	18,535,000
Earnings (after Pref. Div.)	$49,625,000	$440,000	$50,065,000
Earnings per Share	$2.70	$3.38	$2.70
Dilution per Share			
Equiv. ITT Div. Rate—			
Class A		$1.30	
Class B		$.65	
No dilution			
Present Gross Dividend Rates—			
Class A		$1.60	
Class B		$.30	

[2361] [Federal Communications Commission Exhibit No. J–156; presented by Justice Department]

October 23, 1963.

Memorandum for File: A. G. Kandoian

Subject: Gross Telecasting Corp., Lansing, Michigan

At Mr. Luke's request, I visited the Gross Telecasting Corporation in Lansing, Michigan, on October 18. The purpose was to give an engineering evaluation of the operation of Stations:

WJIM–TV Channel 6 (82–88 mc)
WJIM–FM (97.5 mc)
WJIM–AM (1240 kc)

I had telephone contact with Mr. Harold Gross, majority stockholder, on October 17 and 18, but did not meet him personally. He said he had to go out of town. I spent my time with Mr. Carl Onken, Chief Engineer, and a few other station personnel who showed me whatever I was interested in. In accordance with 'phone agreement with Mr. Gross, I did not discuss possible acquisition with Carl Onken or other WJIM personnel.

Following is a summary of conclusions:

1. There is an adequate supply of good quality transmitting, studio, video and audio equipment, including two separate TV transmitters (25 kw regular and 5 kw standby), and two separate antenna systems, standard on 1000 ft. tower at transmitting site some eight miles from studio, and standby on 440 ft. tower near the studio building, normally used for AM and FM only. They also have video tape equipment.

2. The studio is inter-connected with the transmitter by means of an RCA microwave link which has been very reliable.

3. The operation and maintenance of the equipment is good. There appears to be no evidence of excessive outage time. There appears to be a sufficient supply of spares.

4. The personnel is adequate and those I talked to appeared quite competent.

5. The equipment is in good condition and, with adequate maintenance, should last a long time. Some of the studio and synchronizing equipment could be replaced with smaller and more compact solid state gear, which would require less power

and space. However, this is not an urgent need. Updating and modernizing with solid state studio equipment might involve in the neighborhood of $50,000.

[2362] 6. They can handle network color on their station, but CBS does not have much, if any, color transmission. They do not generate color programs of their own.

7. Most of their equipment, including high power transmitters and antennas, are RCA design. They do not have a maintenance contract, but get very good service on the rare occasions when they need parts or service in a hurry.

[2363] [*Federal Communications Commission* Docket No. 16S2S, Exhibit No. J–157; presented by Justice Department]

NOVEMBER 19, 1963.

Memorandum To: Mr. H. S. Geneen
Subject: Gross TV

Hal Gross, President of Gross TV, called to say he had talked with John Brick of Paine, Webber. Brick stated that he had been talking to you and that you said that you had not had the opportunity to meet Gross, but that you were interested in seeing him at a convenient time. Gross told me that he would like to meet you at any time you suggest. He mentioned the week of December 2nd as a possibility. Is there any message you would like me to relay to Hal Gross?

STANLEY LUKE.

[2364] [*Federal Communications Commission* Exhibit No. J–158; presented by Justice Department]

[2365] NOVEMBER 8, 1963.

Mr. Albert Pratt,
Paine, Webber, Jackson & Curtis,
24 Federal Street,
Boston, Mass.

Dear Albie: Thanks for your letter of October 14. I have sent the enclosures over to Jack Graham in whose area this falls.

I have not yet met Harold Gross, mainly because I have been out of the country pretty steadily for the last several weeks. From all the reports I get he must be a very fine fellow.

I appreciate your offer to help and, as soon as we get to a more definitive point, I will give you a call.

In the meantime, it was very pleasant to hear from you and when you are in New York why not drop in and say hello.

Best personal regards.

Sincerely,

[2366] PAINE, WEBBER, JACKSON & CURTIS,
Boston, Mass., October 14, 1963.

Mr. Harold S. Geneen,
President, International Telephone & Telegraph Corp.,
67 Broad Street
New York, N.Y.

Dear Hal: This letter and enclosures can await your return from Europe.

We have been talking frequently with Harold Gross about your discussions. I think he is favorably inclined provided that he can have some kind of assurance of a good working relationship in the future. Obviously, this is not the kind of thing that can be guaranteed by contract; it depends upon an understanding between the personalities involved. I have told Harold Gross that I felt he should talk directly to you and that you were the only person who could satisfy him as to the compatibility of a working arrangement in the future. I further told him that I believed the two of you would get along together fine.

As you know, we are bankers for the company. If there is anything else I can do to be helpful, please let me know.

I am enclosing a second letter on another possible acquisition, which you may want to pass on to somebody in your organization.

Warm personal regards,

Sincerely,

Albie,
ALBERT PRATT.

[2367]

* * * * *

[2368] **GROSS TELECASTING, INC.**

PRELIMINARY STUDY, JUNE 6, 1963

[2369] *Sales & earnings report*

[$ millions]

	Sales	Earnings	%	Earnings per Common Share
Year Ending 12/31—				
1962	2.450	.663	27.1	1.66
1961	2.348	.583	24.8	1.46
1960	2.454	.640	26.1	1.60
1959	2.563	.672	26.2	1.68
1958	2.770	.766	27.7	1.91
1957	2.734	.674	24.7	1.68
1956	2.815	.742	26.4	1.85
1955	2.608	.725	28.2	1.81
1954	2.242	.639	28.5	1.60
1953	1.857	.420	22.6	1.05

* * * * *

	Sales	Earnings	%	Earnings per Common Share
For Three Months Ending 3/31—				
1963	.635	.164	25.8	.41
1962	.549	.139	25.3	.35

[2370] *Comparative earnings report, year ending 12/31*

[$ millions]

	1962 Amount	1962 %	1961 Amount	1961 %
Net Sales	2.450	100.0	2.348	100.0
Cost of Sales	.568	23.2	.528	22.5
Gross Profit on Sales	1.882	76.8	1.820	77.5
Selling, etc. Expenses	.729	29.8	.761	32.4
Income on Sales	1.153	47.0	1.059	45.1
Other Income	.160	6.5	.144	6.1
	1.313	53.5	1.203	51.2
Other Expenses:				
Income before Taxes	------------	------------	------------	------------
Income Taxes	.650	26.5	.620	26.4
Net earnings	.663	27.0	.583	24.8

[2371] *Consolidated balance sheet, as of 12/31*

[$ millions]

	1962	1961
Assets:		
Cash & Marketable Securities	3.5	4.0
Receivables, net	.3	.2
Property, net	.7	.7
Investment	.7	
Other Assets	.1	.1
Total Assets	5.3	5.0
Liabilities:		
Accounts Payable	.1	
Accruals	.1	.2
Income Taxes (inc. Deferred)	.4	.4
Total Liabilities	.6	.6
Shareholders' Equity:		
Common Stock	.4	.4
Retained Earnings	4.3	4.0
Total Equity	4.7	4.4
Total Liabilities & Equity	5.3	5.0

[2372] *Capitalization:*

Common Stock: 200,000 Shares $1 Par (600,000 Shares Authorized)	$200,000
Class "B" Common Stock: 200,000 Shares $1 Par, authorized & issued	200,000
(Dividend restriction applies on Class B stock thru 1964; is convertible 3/31/64 for common on a share-for-share basis)	
Retained Earnings	4,306,632
Total	$4,706,632

Book Value per Common & Class B Common Share: $11.77

Share-holders:

Common: 1750

Class B: 7

(Gross family owns 98.8% of Class B & 3.9% of Common)

Price/Earnings Ratio: 15

Book Value/Earnings Ratio: 7

[2373] Incorporated 1937 in Michigan.

Acquired radio station WJIM from HF Gross at incorporation, station started operations in 1934. Station is a CBS outlet operating at 1,000 Watts; located in Lansing, Michigan. Acquired FM license and started FM broadcasts in 1960. Operates WJIM-TV transmitting at 25,000 watts, affiliated with NBC, ABC, & CBS basic networks.

Television contributes 90% of gross revenue, radio 10%.

Offices, studios, and transmitters are located in Lansing, Michigan, in a building containing 26,000 square feet.

Employees: 70

[2374] ESTIMATES OF EARNINGS DILUTION

Several bases for offers to acquire Gross Telecasting are explored in the following computations to determine:

a) the effect on ITT 1962 earnings per common share; and

b) the effect on dividends to present shareholders.

Basic data and assumptions

	ITT	Gross
Outstanding shares 12/31/62	16,496,956	400,000
1962 Earnings (after Pref. Dividends)	40,075,000	662,648
1962 Earnings per common share	2.43	1.66
Market (NYSE W-OTC 5/31/63—24B & 25¼A	50	25
Current Indicated Annual Dividend Rate	1.00	[1].95

[1] Average.

Note: 1961 & 1962 Dividends:

$1.60 on 200,000 Common Shares=320,000.

$0.30 on 200,000 Class B Shares=60,000.

a) All Common—Current Market ($10,000,000=15×1962 Earnings) (.5 share of ITT for each share of Gross or 1 share ITT for each 2.0 shares of Gross)

	ITT	After Acq.	Combined
Shares Outstanding	16,496,956	200.000	16,696,956
Earnings (after Pref. Div.)	40,075,000	662,648	40,737,648
Earning per Share	2.43	3.31	2.44
Dilution per Share	------------	------------	+.01
Equivalent ITT Dividend Rate	------------	.50	------------

b) 25% Premium—Current market ($12,500,000=19×1962 Earnings)

All Common .625 Share of ITT for each share of Gross; or 1 Share ITT for each 1.60 shares of Gross

	ITT	After Acquisition	Combined
Shares Outstanding	16,496,956	250,000	16,746,956
Earnings (after Pref. Div.)	40,075,000	662,648	40,737,648
Earnings per Share	2.43	2.65	2.43
Dilution per Share	....	....	....
Equivalent ITT Dividend Rate	....	.63	....

[2375] c) 25% Premium Current Market ($12,500,000=19 ×1962 Earnings)

Premium In 4% Preferred: $2,500,000=25,000 Shares $100 Par

Balance In Common: $10,000,000=200,000 Shares

	ITT	After Acquisition	Combined
Shares Outstanding	16,496,956	200,000	16,696,956
Earnings (after Pref. Div.)	40,075,000	562,648	40,637,648
Earnings per Share	2.43	2.81	2.43
Dilution per Share	....	....	....
Equivalent ITT Dividend Rate	....	.75	....

(d) 25% Premium Current Market ($12,500,000=19×1962 Earnings)

50% in 4% Preferred: $6,250,000=62,500 Shares $100 Par

50% in Common: $6,250,000=125,000 Shares

	ITT	After Acquisition	Combined
Shares Outstanding	16,496,956	125,000	16,621,956
Earnings (after Pref. Div.)	40,075,000	412,648	40,487,648
Earnings per Share	2.43	3.30	2.44
Dilution per Share	....	....	+.01
Equivalent ITT Dividend Rate	....	.94	....

[2376] [*Federal Communications Commission*, Exhibit No. J–159; presented by Justice Dept.]

DECEMBER 5, 1963.

MR. AL FRIEDMAN,
Kuhn Loeb Company,
New York, N.Y.

DEAR MR. FRIEDMAN: As requested by you in our telephone conversation this morning, we are sending you herewith copies of the following information from our files on Gross Telecasting, Inc.:

A) Preliminary Study Dated 6/6/63.

B) Letter Dated 10/21/63 from Luke to Graham with attached Dilution Computation.

C) Survey Memo Dated 10/23/63, Signed by A. G. Kandoian.

D) Gross Telecasting Balance Sheet, Income Statement, and Revenue Statement as of 3/31/63.

E) Gross Telecasting Balance Sheet, Income Statement, Revenue Statement, and Expense Statement as of 9/30/63.

Mr. Luke would like to have available by Monday, December 9, as complete a survey of this operation as can be accomplished within the time limitation.

If any further information is required or if we can be of any assistance, please do not hesitate to call.

Very truly yours,

E. J. GURLEY,
Manager Business Development.

[2377] [*Federal Communications Commission*, Exhibit No. J–160; presented by Justice Department]

KUHN, LOEB & CO.,
THIRTY WALL STREET,
New York, December 9, 1963.

STANLEY LUKE, Esq.,
International Telephone and Telegraph Corporation, New York, N.Y.

DEAR STAN: Pursuant to your request, I am enclosing two copies of our memorandum discussing valuation of Gross Tele-

casting. If you have any questions concerning this subject, please do not hesitate to call me. I am at your disposal, should you want to go into this matter in further detail.

Yours,

Ae
ALVIN E. FRIEDMAN.

Encl.

[2378] [*Federal Communications Commission,* Exhibit No. J-160a; presented by Justice Department]

DECEMBER 6, 1963.

Preliminary Draft

VALUATION OF GROSS TELECASTING

Gross Telecasting owns and operates television broadcasting station WJIM-TV and radio stations WJIM-AM and WJIM-FM in Lansing, Michigan. The television station, with transmitting power of 25,000 watts and effective visual power of 100,000 watts, is affiliated with the CBS (basic), ABC and NBC networks.

The following table shows the earnings, both reported and cash, adjusted to eliminate non-operating income:

[In thousands of dollars]

	1962	3-year average, 1960-62	Est. 1963
Reported net income before taxes	$1,313	$1,267	....
Deduct: Other income	160	143	....
Adj. net income before taxes	1,153	1,124	....
Adj. net income after taxes	757	562	$690
Cash earnings	639	647	767

Based on December 4, 1963 market prices for comparable broadcasting companies 1962 and 3 year average (1960-62) earnings were valued at the following P/E ratios:

	Scripps-Howard	Taft	Storer
1962 earnings:			
Reported	15.9 x	17.6 x	17.9 x
Cash	13.0	[illegible]	14.2
3-year average earnings, 1960-62:			
Reported	17.2 x	21.3 x	19.7 x
Cash	14.4	15.3	15.0

Based on the price ratios for Scripps Howard, Taft and Storer as stated above, the derived value for Gross Telecasting would be as follows:

[2379] *Current price ratios related to 1962 earnings of GT*

[1962 Earnings of Gross—Reported $575,000; Cash $639,000 as adjusted]

[Dollar amounts in thousands]

	Scripps Howard		Taft		Storer	
	Reported	Cash	Reported	Cash	Reported	Cash
Ratio	15.9 x	13.0 x	17.6 x	13.2 x	17.9 x	14.2 x
Derived Value for Gross	$9,143	$8,307	$10,120	$8,435	$10,293	$9,072
Plus Excess Cash	4,000	4,000	4,000	4,000	4,000	4,000
Total	13,143	12,307	14,120	12,435	14,293	13,072

Current price ratios related to 3-year average earnings, 1960–62 of GT

[3 year Average Earnings of Gross—Reported $562,000; Cash $647,000, as adjusted]

[Dollar amounts in thousands]

	Scripps Howard		Taft		Storer	
	Reported	Cash	Reported	Cash	Reported	Cash
Ratio	17.2 x	14.4 x	21.3 x	15.3 x	19.7 x	15.0 x
Derived Value for Gross	$9,890	$9,202	$12,248	$9,777	$11,328	$9,585
Plus Excess Cash	4,000	4,000	4,000	4,000	4,000	4,000
Total	13,890	13,202	16,248	13,777	15,328	13,5.5

For the 9 months ended September 30, 1963 compared with 1962, Gross Telecasting reported a 20% increase in net profits on a 15% gain in broadcasting revenues. Assuming the % gain in profits will be maintained for the full year 1963, adjusted reported earnings would be $690,000 and cash earnings $767,000. Valuation on such estimated results would be:

[2380] [Dollar amounts in thousands]

	Scripps Howard		Taft		Storer	
	Reported	Cash	Reported	Cash	Reported	Cash
Ratio of Current Price to 1962 Earnings	15.9 x	13.0 x	17.6 x	13.2 x	17.9 x	14.2 x
Derived Value for Gross	$10,971	$9,971	$12,144	$10,124	$12,351	$10,891
Plus Excess Cash	4,000	4,000	4,000	4,000	4,000	4,000
Total	14,971	13,971	16,144	14,124	16,351	14,891

A "rule of thumb" method of valuation of a TV broadcasting company is to assign a value of $10 for each television household in the station's market area, provided the station is in the top twenty markets. As shown below, WJIM–TV does not rank in the top twenty markets.

Television market rankings (as of January 1, 1962)

	ARB Net Weekly Circulation	Rank	Total Homes	Rank	Television Households	Rank
Lansing, Michigan	416,600	36	858,500	26	813,000	25

It should be noted also that WJIM's penetration of the Lansing Market area is relatively low at 51% of the television households, compared with 85% penetration for WJRT in Flint, Michigan, which serves a smaller area, including the City of Lansing in the Grade A viewing area.

Although as noted above, GT does not rank in the top twenty markets, the "rule of thumb" method would nevertheless produce a total value of $12,130,000 ($8,130,000 plus $4,000,000 excess cash). However, in view of the substantial improvement in 1963 9-months operations which reversed the declining trend during the five years 1958–1962, and assuming subsequent operations may continue an upward trend, with present or possibly new management, the "rule of thumb" method of valuation may be a valid calculation.

Based on the present bid price of 25 at 12/5/63, the 400,000 shares of Common and Class B stock have an indicated market value of $10,000,000. The $1.60 dividend on the common stock ($0.30 on Class B) offers a yield of 6.4% as compared with 5.2% for Scripps Howard, 4.5% for Storer and 2.4% for Taft.

The various price/earnings determinants utilized herein have provided values for Gross Telecasting ranging from approximately $12,000,000 to $16,000,000 based on 1962 and 3-year average earnings and values of approximately $14,000,000 to $16,000,000 based on estimated results for 1963 (applying the 1962 P/E ratios thereto). Such valuations are based on ratios applicable to three companies, all of which are substantially larger. Furthermore, these companies experienced impressive

records of growth in revenues and profits in contrast to the declining record of Gross Telecasting over the past five years. However, reported 1963 interim earnings of Scripps Howard, Storer and Taft all show small declines from 1962 levels whereas Gross Telecasting's earnings for nine months of 1963 are up 20%.

As previously indicated, the "rule of thumb" method, as adjusted, indicated a valuation of $12,000,000.

In view of the foregoing and subject to a more detailed investigation, we submit a preliminary value of $12,000,000 (which includes $4,000,000 excess cash) may be considered fair and equitable. A value of $12,000,000 is equivalent to:

20.9×1962 adjusted earnings
18.8×1962 adjusted cash earnings
21.4×1960–1962 adjusted average earnings
18.5×1960–1962 adjusted average cash earnings
17.4×1963 adjusted estimated earnings
15.6×1963 adjusted estimated cash earnings
144% premium over book value at September 30, 1963.

[2382] *Draft*

December 11, 1963.

Memorandum to: Mr. H. S. Geneen
From: Stanley Luke.
Subject: Gross Telecasting, Inc.

A copy of our preliminary report on Gross Telecasting, Inc., Lansing, Michigan, is attached for your consideration.

We have proposed that Gross can be acquired for $13,000,000. Gross has 400,000 shares of stock outstanding—200,000 shares of Class A non-voting largely held by the public, and 200,000 Class B voting shares largely held by the Gross family. In order to meet the higher dividend ($1.60) presently paid to Class A shareholders we propose they be given ITT 4% Preferred convertible at $65.00—this represents 65,000 ITT Preferred shares. ITT Capital Stock would then be exchanged for the 200,000 Class B shares—at current market 118,994 shares.

The price of $13,000,000 is 18.6 times projected 1963 earnings. However, when $4,000,000 cash now shown on the balance sheet is subtracted, the net purchase price of $9,000,000 is ap-

proximately 13 times earnings and about 11.7 times cash flow. The attached report from Al Friedman establishes the price range between $12,000,000 and $16,000,000 by applying methods generally accepted for such purposes today.

A $13,000,000 purchase price less $4,000,000 cash is equivalent to:

15.6×1962 adjusted earnings (net of other income)
14.1×1962 adjusted cash earnings
16.0×1960–62 adjusted average earnings
13.9×1960–62 adjusted average cash earnings
13.0×1963 adjusted estimated earnings
11.7×1963 adjusted estimated cash earnings
83% Premium over book value at September 30, 1963.

[2383] [Federal Communications Commission, Exhibit No. J–161; presented by Justice Dept.]

BREAK-EVEN

TV 60% op. profits before depreciation (which is low) huge
1. Station *dominates* market
Competition came in '59—Coverage not as great
10 yrs. more in business—habit factor
Must get lion's share of national spot expenditures lower cost/thousand
Programming supplied, sell station breaks
2. Must get premium compensation from ABC—50% without free time
CBS—30% of network sales after 22 free hours/week to compensate for cable charges
Claims *never* gives premium, but think they do
Unusually stony financial condition
Gross gets $75,000/yr. salary
Officers & directors get 90,000 more
Should earn $2.00 this year, (not *good* est.)
'63 good yr. for industry—higher network income
Industry checks 0
Difficult to doctor up statements in this business few accruals
[2384] Alan Roth 12/30/63

Radio $308,000 Gross break-even
TV 60% op. profits before depreciation (which is low) huge
1. Station *dominates* market
Competition came in '59—Coverage not as great
10 yrs. more in business—habit factor
Must get lion's share of national spot expenditures lower cost/thousand
Programming supplied, sell station breaks
2. Must get premium compensation from ABC—50% without free time
CBS—30% of network sales after 22 free hours/week to compensate for cable charges
Claims *never* gives premium, but think they do
Unusually Stony financial condition
Gross gets $75,000/yr. salary
Officers & directors get 90,000 more
Should earn $2.00 this year (not *good* est.)
'63 good yr. for industry—higher network income
Should earn $2.00 this year (not *good* est.)

[2385] [Federal Communications Commission, Exhibit No. J-162; presented by Justice Dept.]

Alan Roth 1/2/64
Must know—Does Gross get premium from CBS
2 things to check (rel. minor)
1. What are chances for 3rd station in Lansing *unlikely* Detroit, Kalamazoo, Flint—hemmed in
2. Why is WLIX doing so badly in market will competitive balance in market change
Loose edge in national spot market
Reps Blair represents Gross 230 for minute spot
? represents WLIX 140 for minute spot
Gross could be more profitable if managed by professionals
Local sales effort could be picked
Could we buy station franchise No. whole co.?
15x '63 net of *station* (30) $12M
5% growth in earnings over next 10 yrs. if you step up depreciation to $150,000/yr. from 60,000 *10 yr. pay out*

Gross—2 yrs. ago made moves to multiple station tried to hire network guy who didn't come
$750,000 Aero Astro Co. makes EL equipment
Bonds conv @ 7, stock sells @ 3

[2386] [Federal Communications Commission, Exhibit No. J–163; presented by Justice Department]

Other cos. nets commissions out of sales
so margin here is even higher 63% after dep.
Goodwill Station same type of situation
Stock sells for 15, cap cities offered 30, was turned down
'62 $7.8 sales $1, 4 NBT is .49 in '61
670,000 shs. Charleston-Huntington TV, Radio in Flint and Detroit

[2387] [*Federal Communications Commission,* Exhibit No. J–164; presented by Justice Department.]

MILLARD B. DEUTSCH & COMPANY,
Chicago, Illinois, January 9, 1964.

Confidential
Mr. STANLEY LUKE,
Vice President
International Telephone & Telegraph Corporation
New York, New York

DEAR MR. LUKE: It was just about 60 days ago when I was last in New York, and called you to find that you had just returned from Europe, and were trying to get your feet on the ground once again with respect to your activities in this country.

As a result, you indicated that you intended to get the Gross Telecasting negotiations rolling once again with a phone call to Hal Gross, to arrange another meeting with him, for a more exhaustive joint exploration of the proposed transaction between you.

Since that time, I have been away from my office fairly constantly, so that I have somewhat lost track of where this matter now stands,—and I would therefore very much appreciate it if you would be good enough to bring me up to date,—and of

course, if there is anything that I can do, either now, or at some future date, to help move things along, I hope you won't hesitate to let me know.

Kindest personal regards,—and all best wishes for the New Year.

Cordially yours,

MILLARD B. DEUTSCH,
President.

[2388] [*Federal Communications Commission,* Exhibit No. J–165; presented by Justice Department.]

FEBRUARY 13, 1964.

Memorandum to: Mr. Hart Perry
Subject: *Gross Telecasting*

Millard B. Deutsch, who is associated with the Gross Telecasting interests, called me yesterday with respect to what interest, if any, we have in Gross. Would you please let me know whether or not we have any interest so that I can advise these people.

STANLEY LUKE.

[2389] [*Federal Communications Commission,* Exhibit No. J–166; presented by Justice Dept.]

To: Mr. Stanley Luke
Re: Gross Telecasting

Stan: Chris Witting will be in touch with you about this.
2/24/64

HART PERRY.

[2390] [*Federal Communications Commission,* Exhibit No. J–167; presented by Justice Dept.]

MEMO SLIP

2/26/64.

Mr. Witting: For your information.

STANLEY LUKE.

[2391] NEWS FROM WJIM COUNTRY HOUSE

News Release

GROSS TELECASTING REVENUE AND PROFITS UP FOR '63

Harold F. Gross, president of Gross Telecasting, Inc., announced today that sales in the first nine months of '63 exceeded the same period in '62 by 21% and likely would have continued this gain in the final quarter except for circumstances which affected income and profits during October and November. Income received in October and November of '62 from political candidates and parties in connection with state and local elections was not realized in '63 which was an off-election year, and WJIM Radio and Television joined with the CBS and NBC networks and the television and radio industry in cancelling all commercials during the four day period following President Kennedy's assassination. Although some clients scheduled "make-goods" on later dates, all network and a majority of national spot income was lost during this period. These factors resulted in a reduction of percentage gain for the year.

Broadcasting revenues for the year increased 8% with local sales recording the greatest increase. Revenues totaled $2,813,053 compared to $2,610,095 in 1962. Operating expenses were $1,399,564 against $1,297,447 the previous year. The resulting net income after taxes was $683,489 or $1.71 per share, compared with $662,648 or $1.66 per share in 1962.

The corporation continued its uninterrupted payment of cash dividends on both classes of stock for the ninth consecutive year . . . paying $1.60 on the common stock and 30¢ on the common B, for total dividend distribution of $380,000. Dividends represented 56% of the net earnings of the company in '63 and left $303,489 to be credited to retained earnings.

	1963	1962	1961
Total revenue	$2,813,053	$2,610,095	$2,492,554
Net income	683,489	662,648	582,952
Net Earnings Per Share on 400,000 Shares Outstanding	1.71	1.66	1.46

Gross Telecasting, Inc.
Lansing, Michigan
February 24, 1964

[2392] [*Federal Communications Commission*, Exhibit No. J–168; presented by Justice Dept.]

NEWS RELEASE

LANSING, MICH.,
February 17, 1965.

GROSS TELECASTING, INC., SALES AND PROFITS AT ALL TIME HIGH IN '64

In 1964 new all time highs in both sales volume and net income were recorded by Gross Telecasting, Inc., and for the third consecutive year both income and profits showed substantial increases. Revenues of $3,052,722 were the largest in the history of the company which was founded as Gross Telecasting, Inc. in 1955, surpassing a previous all time high of $2,876,569 in 1958.

Broadcast and investment revenue increased 9% to $3,052,722 compared with $2,813,053 in '63. Higher local and national television sales accounted for a majority of the increase. Operating expenses for the year were $1,509,595 compared with $1,399,564 in '63.

These revenues and expenses resulted in net income after taxes of $788,127 against $683,489 reported for the previous year . . . this amounted to $1.97 per share on the 400,000 shares outstanding at year-end or an increase of 26¢ per share over '63 when per share earnings were $1.71.

The corporation continued its uninterrupted payments of cash dividends on both classes of stock for the tenth consecutive year, paying $1.60 on the common stock and 30¢ on the common B, for a total dividend distribution of $380,000. Stockholders who purchased Gross Telecasting stock when it was offered publicly in 1955 will have received their entire original investment in dividends with the payment of the 41st consecutive dividend due to be paid in May of this year.

Audience surveys during the year recorded additional listeners and higher ratings for WJIM Radio, and the continued dominance of WJIM–TV in the mid-Michigan market.

[2393] [Federal Communications Commission, Exhibit No. J–169; presented by Justice Dept.]

MARCH 19, 1965.

Mr. Stanley Luke
J. J. Field
Gross Telecasting, Inc.

In December 1963 it was proposed ITT purchase Gross for $13,000,000 in ITT Capital (118,994) and Preferred (65,000) shares. The balance sheet contained approximately $4 million in cash at that time and now. This purchase price in terms of 1963 and 1964 results in:

	1963	1964
$13 Million Purchase Price:		
X Earnings	19.0 x	16.4 x
X Adj. Earnings (ex other income) (1963, $605,553; 1964, $698,287)	21.5 x	18.6 x
X Net Worth	2 6 x	2.4 x
Purchase Price (less cash on bal. sheet $4 million):		
X Earnings	13.2 x	11.4 x
X Adj. Earnings (ex. other income)	14.9 x	12.9 x
X Net Worth	1.8 x	1.7 x

1964 revenues increased 8.4% over 1963 and net income A/T increased 15.3% over 1963. No dilution of earnings is involved. In 1964 Gross would have contributed about .8¢ on total shares (ITT at $3.11).

Market price of Gross shares increased from $25⅞ (avg. B&A) in December 1963 to Present 29⅞ (15.4%), whereas ITT shares increased from $54⅝ to $60 (9.8%).

The equivalent dividend for Gross A shares remains at $1.30/share (compared to their $1.60), but because of the increase in ITT Capital Stock dividend, etc., the Class B share equivalent would now be 71¢ compared to their 30¢ and to the former equivalent ITT dividend of 59¢.

[2394] [Federal Communications Commission, Exhibit No. J–170; presented by Justice Department.]

News Release

GROSS TELECASTING, INC., NET INCOME UP 22% FOR FIRST QUARTER OF 1965

Directors of Gross Telecasting, Inc. today declared the regu-

lar quarterly dividend of 40 cents a share on the common stock and 7½ cents a share on the Class B common stock, both payable May 10, 1965 to shareholders of record at the close of business April 26, 1965.

Broadcasting revenues for the first quarter increased from $609,299 in '64 to $669,433. Net income increased 22% to $191,571 from $157,131 in the same period a year ago. This represents earnings of 48 cents per share on 400,000 shares of common and Class B common stock, an increase of 9 cents per share over earnings of 39 cents in '64.

Harold F. Gross, President and Treasurer, and James H. Spencer, Vice President, were re-elected, and James H. Gross was elected Secretary. These officers with Charlotte I. Gross, Sherrod E. Skinner and Raymond W. Miottel comprise the Board of Directors.

Lansing, Michigan.
April 8, 1965.

[2395] [Federal Communications Commission, Exhibit No. J-171; presented by Justice Department]

News Release

GROSS TELECASTING, INC. EARNINGS UP 7% FOR FIRST SIX MONTHS

Revenue for the first six months of 1965 was $1,426,490 compared to $1,375,680 in 1964, and earnings were $411,572 against $382,789, up 7% for the same period. This represents earnings of $1.03 a share against 96¢ a share for first six months of 1964.

Directors declared the regular quarterly dividend of 40 cents a share on the common stock and 7½ cents a share on the Class B common stock, both payable August 10, 1965, to shareholders of record at the close of business July 26, 1965.

Gross Telecasting, Inc.
Lansing, Michigan
July 12, 1965

[2396] [Federal Communications Commission, Exhibit No. J-172; presented by Justice Department]

News Release

At a meeting today the Board of Directors of Gross Telecasting, Inc. declared the regular quarterly dividend of 40 cents

a share on the common stock and $7\frac{1}{2}$ cents a share on the class B common stock, both payable November 10, 1965 to shareholders of record at the close of business October 25, 1965.

Gross Telecasting, Inc.
Lansing, Michigan
October 14, 1965

[2397] [Federal Communications Commission, Exhibit No. J-173; presented by Justice Department]

[The Wall Street Journal—January 29, 1965]

PEOPLES BROADCASTING PLANS TO BUY KNOXVILLE RADIO AND TV STATIONS

By a Wall Street Journal Staff Reporter

COLUMBUS, OHIO—Peoples Broadcasting Corp. said it has agreed to purchase for $6,805,000 the assets of Wate, Inc., owner and operator of station WATE-TV and ratio station WATE-AM in Knoxville, Tenn. The acquisition is subject to approval by the Federal Communications Commission.

George W. Campbell, executive vice president of Peoples Broadcasting, and W. H. Linebaugh, executive vice president and general manager of Wate, announced the agreement jointly in Columbus and Knoxville. Application for transfer of the station licenses will be made to the FCC within a week, their statement noted.

The present corporate structure of Wate would be dissolved, although the stations' call letters will remain the same under the new ownership, the announcement said. The two stations would continue their affiliation with National Broadcasting Co., it added.

Herbert E. Evans, Peoples Broadcasting president, said local management of the two stations, with staff personnel of 81, would continue unchanged. WATE-TV, a VHF station, began broadcasting Oct. 1, 1953.

Peoples Broadcasting currently owns and operates television station KVTV in Sioux City, Iowa, and has an application pending for a license to operate an UHF station in Columbus on Channel 40. Founded in 1946, the company also owns and operates radio stations WRFD-AM and FM in Columbus,

WGAR-AM and FM in Cleveland, and WNAX-AM in Yankton, S. D. It also owns Green Meadows Country Inn, a hostelry-restaurant north of Columbus.

[2398] [*Federal Communications Commission*, Exhibit No. J-174 presented by Justice Department.]

~~2398~~

INTERNATIONAL TELEPHONE AND TELEGRAPH CORPORATION
INTERNATIONAL HEADQUARTERS

H. S. G. OCT 14 1964

TO Mr. Harold S. Geneen

DATE October 13, 1964

FROM Hart Perry

WHEN REPLYING, PLEASE QUOTE FILE

SUBJECT Acquisitions

There are two potential acquisition candidates on which outsiders are pressuring for answers:

National Union Electric

TV Station - WATE, Knoxville, Tenn.

Neither of these two properties seem unusually attractive to me at this time, so I would suggest that we say to these people that we are not in a position to make a decision for the next 60 to 90 days, thus leaving them free to take other steps if they wish. We would thus put them on the back burner until the current Board sentiment is clarified since in neither case does it seem worthwhile to make an issue at this time. We could then take a look at both at that time.

Attached is some material on WATE with notes from Chris Witting. Bob and I believe we should continue to look at multi-station possibilities before going the route of individual acquisitions.

Att.

cc: Chris Witting

Federal Communications Commission
Docket No. 16828 Exhibit No. J-174
Presented by Justice Dept.
Disposition: Identified / Received / Rejected
Reporter C.S.A.
Date 4/25/67

J174

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[2399] [*Federal Communications Commission,* Exhibit No. J–175; presented by Justice Department]

OCTOBER 14, 1964.

To Mr. H. Perry
Re:

Hart: Re your memo of 10/13 on National Union(?) & T.V. Station—agree.

H.S.G.

[2400] [*Federal Communications Commission,* Exhibit No. J–176; presented by Justice Department]

[Memo to HSG from HP—No material—Not terribly attractive, so back burner—if walk away, OK.]

INTERNATIONAL TELEPHONE AND
TELEGRAPH CORPORATION,
INTERNATIONAL HEADQUARTERS,
October 5, 1964.

To Mr. Hart Perry
From Robert H. Kenmore
Subject TV Station WATE—Knoxville

Mr. Crisler called as a follow up to his submission of this station and said that he had just this morning received a cash offer of $6.5 million for it from another party (unsolicited). The sellers, however, have evidenced preference for stock and, therefore, he would like to know where we stand on this before submitting the other offer to the owners.

He points out that the asking price is some 8x the anticipated operating income (before depreciation and taxes) of $800,000 for 1964 and that recent sales of stations have taken place in Pittsburgh at 11x, Flint, Michigan 10x, and Rochester also 11x. I told him I would be in touch with him as soon as possible.

I have no idea where matters now stand with Corinthian but interest in WATE would be a different approach of buying a single station in a relatively small market (83rd nationally in net weekly circulation) as opposed to a chain of 4 or 5 stations in larger markets. Without a background of competence in the field I would think that the latter approach might be more successful but availability seems to be a major problem.

Aside from this, WATE would seem to be in a good position within the market. It is an NBC affiliate and has a 52% share of the market with the only other VHF station, a CBS affiliate, having a 41% share of the market.

[2401] [*Federal Communications Commission,* Exhibit No. J–177; presented by Justice Dept.]

R. C. Crisler & Co., Inc.,
Cincinnati, Ohio, September 23, 1964.

Mr. Robert H. Kenmore,
Director of Financial Planning,
International Telephone and Telegraph Corp.,
New York, N.Y.

Dear Bob: I don't know whether you are in Brussels or Madrid, but shall assume that this will reach you somewhere along the line.

I think you should know that as of the end of August the net quick assets at WATE amounted to $534,648 compared with about $449,000 at the end of June. As I think I mentioned to you before, the IRS has been after them and they will have to pay a substantial dividend before the end of the year unless they have a good excuse, which would be negotiations in progress.

More important, this would mean that your net price on an exchange of stock for assets alone would be reduced by the amount of the net quick and this figure is, of course, substantial in relation to the total price.

I will be in New York tomorrow afternoon and will also be there for a short time Friday morning. I shall not call you, however, as I am sure I will hear from you when something has developed from your end.

Sincerely,

R. C. Crisler.

RCCC:rg

[2402] [*Federal Communications Commission*, Exhibit No. J-178; presented by Justice Dept.]

WATE

~~2402~~

9/18/64

HART

This looks good at

say 15 X earnings. They are

asking 17½ X. Kenmore

stalling them for a few days.

Since Whitney group looks dead

Perhaps we should build our own

if HSG wants to. (Cross-Hartford-Knoxville etc.

Will you show him this

& advise Kenmore pls

HW

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* * * * *

[2403] [Federal Communications Commission, Exhibit No. J–179; presented by Justice Dept.]

R. C. CRISLER & Co., INC.,
Cincinnati, Ohio, September 10, 1964.

MR. ROBERT H. KENMORE,
Director of Financial Planning,
International Telephone and Telegraph Corp.,
New York, N.Y.

DEAR MR. KENMORE: On a couple of occasions I have asked you or Gardiner Dutton whether your company might be interested in a relatively small market television station involving around $7,000,000, and your answer was that you had to start somewhere and that if it was good enough you certainly would be interested. Accordingly, here is something which I hope will interest you.

We have been talking to the owners of WATE, Channel 6, NBC, in Knoxville, Tennessee, since 1954. Last winter they seemed to think that they might consider a sale but insisted that they only wanted to trade stock and they still weren't sure whether we should talk to anyone or not. We finally introduced the matter to one party who visited Knoxville and stated that they would have stock available. Due to internal complications, such stock is not available. The people have made a cash offer but the owners of the station are still insisting that they would prefer to consider the stock of an acceptable company.

About four weeks ago I sent them a lot of material on International Telephone, but have done nothing because there was still some slight hope that the original buyers could come up with what they wanted. As of this morning I received a green light to bring this to your attention. I have gone into all this detail because the availability of the property is not known to anyone and I would not talk to another prospective purchaser without their approval.

The basic facts and figures are as follows:

ARB calls Knoxville the 77th market in the country with a set count of 376,400. WATE, however, ranks as the 49th NBC market with [2404] average daily circulation of 172,400, just behind Omaha and Charlotte, North Carolina, and ahead of Saginaw-Bay City. TV Magazine gives the market credit for 251,400 television homes.

In 1963 the Knoxville market showed total broadcast revenues of $2,998,391 with profits before taxes of $880,000 for three stations. Knoxville is essentially a two station market because the third station is UHF and currently grosses around $10,000 per month. While a UHF will obviously improve, it will always be an inferior facility in a place like Knoxville with hilly and mountainous terrain.

The foregoing is borne out by the Class A hourly rate, the network rate and the actual figures. Currently the Class AAA rate is $700 and the network hourly rate is $875. As of January 1, 1965, NBC has approved an increase in the network rate to $925. I think you will agree that this is a very substantial figure.

The operating figures are also impressive in accordance with attached statements for June, 1964, June 1963 and balance sheets for the last three years.

For the first four months the television station alone grossed $643,353, an average of $160,848 per month. For the seven months through July, the profit before depreciation and before taxes amounted to $465,759. The profit for August was around $57,000, and based on the last four months of 1963 the profit for 1964 will be in excess of $802,000.

Last year the radio station lost money. In July it made $2,974, and in August the radio station made around $5,000. The radio station, incidently, is one of the two good facilities in the city.

About two years ago they bought a very large, old house which was gutted except for the walls. Large studios were added in the rear and everything is now very efficient and new. Practically every new technical piece of equipment is part of the property and, of course, everything is owned.

[2405] The asking figure is $7,000,000, which would be about 17½ times after tax earnings, or about 9 times operating income. If there were an exchange of stock soon, you would get the benefit of around $500,000 and $600,000 of cash which otherwise will have to be paid as a dividend to the stockholders before the end of the year.

I might have added that the ratings are all in favor of Channel 6 against Channel 10 which, although they have recently built a new tower, does not have the same coverage in the rough terrain.

There are about seventeen stockholders and we are dealing with the executive committee. As previously stated, I have advised Mr. Henry Linebaugh that this is being brought to your attention. I am sure you realize that for his sake, as well as for mine, no knowledge of this should leave your office.

I will be in New York next Wednesday and Thursday and will call you.

Sincerely yours,

R. C. Crisler.

P.S.: I have not gone into additional detail with regard to the market, its expected growth, because of TVA low electric rates, etc. I am sure that this is familiar to you.

[2415] [Federal Communications Commission, Exhibit No. J–181; presented by Justice Dept.]

HAMILTON MANAGEMENT CORPORATION

It has been fully agreed with the proposed seller that there will be the utmost secrecy observed on our part, this in view of the critical nature of his business in relation to his clients (250,000 shareholders and 8,000 sales people) which is vital to his business. In addition, such secrecy is also extremely important to ITT's interest, as ITT may well need to continuously acquire stock on the open market.

The Hamilton Management Company, derives its growth and revenues from:

(1) The fees obtained from the distribution and investment management of the Hamilton Fund and

(2) The 100% ownership of a rapidly developing life insurance subsidiary, the Alexander Hamilton Life Insurance Company.

Both of these activities will be covered separately as they are each important elements in the values of this company.

1. *Hamilton Management Corporation—Advisory Fees and Commission Income from Hamilton Mutual Fund.*

Net assets of the Hamilton Fund as of April 30, 1964 were $360 million. The unpaid balance to be paid in on the presently outstanding contractual plans totals $577 million on the same date. It operates in 45 states in the United States, and some military installations abroad. The company has a direct sales force of 8,000 direct-sales people. Many are part-time but highly compensated as covered below.

The net earnings of the management company for the fiscal year ended April 30, 1964, were $800,000, or 92¢ per share. Its projected net earnings * * *

[2417] The management projects a $1 billion total of mutual fund assets under management by 1969. In view of the total amount of present fund assets of $360 million, and further unpaid balances on present contractual plans currently of $577

million, and the proven sales record of its 8,000 salesmen, we believe that this goal is well-supported as being attainable.

Based on such fund volume to be obtained by 1969, of $1 billion, the projected earnings from management fees and commissions after taxes and attributable to the common stock would be on the order of approximately $3 million by management estimates which would amount to approximately $3.50 per share, on the entire existing 867,000 shares (both classes) of equity stock.

2. *Alexander Hamilton Life Insurance Company, a currently 100% owned asset of the Hamilton Management Corporation*

The Alexander Hamilton Life Insurance Company is a wholly owned asset of the Hamilton Management Corporation. It was formed in January of 1964 and its insurance policies were first offered for sale in May of this year. In this short period of time it has already obtained licenses to operate in 17 states, a practically unheard of rate of licensing acceptance for a new life insurance company. In addition, it has, through the medium of the 8,000 person sales force, become a very rapidly growing insurance company in which insurance is presently being written at the rate of one million dollars per week.

At present only 900 salesmen of the 8,000 sales force have been licensed by state examination to sell life insurance. There are approximately 1,200 additional Hamilton salesmen presently taking these state examinations to become life insurance salesmen. * * *

[2419] insurance coverage is ceded back by Puritan to Hamilton Life, thereby providing a basis of low cost insurance growth for Hamilton in those states in which they are not yet licensed.

Importantly much of the administrative cost is only incremental to already existing administrative staff of the Hamilton Fund. In this way both the additional sales and administrative costs to create this life insurance company are at an unusual minimum. On the whole their project is a soundly thought out approach.

Enclosed are a few prospectuses of their policies. It is a professional caliber job and it is interesting that the Hamilton

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management did its own actuarial studies which were later checked by Connecticut General. The latter changed its own Puritan policy to conform to the Alexander Hamilton policy thereby confirming the actuarial soundness and professional caliber of the Hamilton management approach.

All our investigations of statements made by the management to date reflect a sincerity and objectiveness in all statements made and it is our feeling that this projection of life insurance in force can be given strong credence as to its accomplishment, particularly because it will require no special buildup of salesmen beyond the present group and will take advantage of the ready made customer lists.

Added to this, of course, under ITT's control is the increased additional potential (which is considerable) of the availability of the approximately 35,000 employees of ITT companies in the U.S. who would be available on a payroll deduction basis for both life insurance and fund coverage.

It is difficult to assess the value of life insurance companies on the basis of exhibited earnings due to the heavy first year commission costs particularly in the case of the best and most rapidly growing companies. * * * [2421] through local banks. The management's interest to date has been to satisfy short-term cash needs of shareholders without the necessity of redemption of shares. While the total amount of these transactions is not readily identifiable, since many of these loans are also carried on as simple private transactions between the certificate owner and his local bank, it is our estimate that the amount would substantially exceed $10 million per year and is growing annually. This would present a perfect tie-in with Aetna's 170 loan offices for loans on a very secure basis and as a basis of integrating loan revenues and profits from this source, particularly as the fund and the insurance in force doubles and triples in size.

4. *Hamilton Fund and Insurance Sales Force.*

A review of the Hamilton Management Corporation would not be complete without a special statement as to its sales force. This sales force numbers approximately 8,000 persons, consisting primarily of high-level, part-time people such as school

teachers, high ranking military officers, pilots, etc. who use prime selling time (6:00–10:00 p.m.) to trade on the status and contacts of their day-time activities to supplement their income. Importantly, none (including supervisors) are paid salary. All are on straight commission. Many of these part-time sales people earn $20,000 per year and in excess. The average sales person earns a minimum of $38 per hour spent with prospects in discussion of contractual programs. They also recruit new salesmen among their customers and associates.

The company's experience with its part-time salesmen seems to suggest that they have achieved a new basis of motivating and retaining a professional security and insurance selling group as developed by Hamilton management. * * *

[2425] [Federal Communications Commission, Exhibit No. J–182; presented by Justice Department]

I.T.T.

	(1) Consumer Utilities	(2) Consumer Quasi Utilities	(3) Business Services	(4) Financial Services
Examples	Franchise Protected: A. Telephone utilities; B. Electric utilities; C. Natural gas dist.	Franchise & competitive; A. Television broadcasting; B. Common Carrier (telegraph).	A. Protection Systems & Equipment; B. Subscription data Processing.	A. Small Loan; B. Life Insurance; C. Mutual Fund Management.
CHARACTERISTICS				
Risk of:				
1. Management strain to grow	Low	Low	Medium	Low.
2. Wide earnings fluctuations	Low	Low	Low	Low.
3. Difficulty of financing	Low	Low	Medium	Low.
4. High capital investment	High	Very Low (A) to High (B).	Medium	Low.
5. Large earnings plowback to grow.	High	Low (A) to High (B).	Medium	Low.
6. Highly competitive product pricing.	Low	Low	Medium	Medium.
7. Obsolescence in product, markets, inventory and plant.	Low	Low	Low	Low.
8. Limited incremental earnings from new sales.	Low	Low	Low	Low.
9. Loss of control of ultimate consumer market.	Low	Low	Low	Low.
10. Increasing costs of high labor content.	Medium	Low (A) to High (B).	Low	Low.

[2428] [Federal Communications Commission, Exhibit No. J–183; presented by Justice Dept.]

MARCH 11, 1963.

ACQUISITION POLICY

1. In the year 1963 ITT is projected to earn approximately $8 million after taxes from domestic operations (including Puerto Rico and the Virgin Isles).

In the same year it is projected to earn some $35 million from foreign sources.

In tabulation, therefore, our program of earnings for the year 1963 would look as follows:

	1963 earnings	
Domestic source	$8.00	18.0%
Foreign source	35.00	82.0%
Total	43.00	100.0%

As this indicates, approximately 18 per cent or $8 million of our total earnings will be coming from domestic sources.

2. *Dividends*

In the year 1963 we are scheduled to pay out in U.S. dividends in dollars approximately $16.7 million at our present dollar per share rate. In addition, there is $619,000 of preferred dividends to be paid or a total of $17,329,000 of U.S. dollar dividend requirement.

As will be seen, our earnings in 1963 will not cover half of our U.S. dollar dividend requirement.

3. *World Trends*

This high proportion of foreign earnings in relation to our domestic earnings and domestic dividend dollar requirements has been brought about partly by the more rapid growth of our historically strong foreign situation in contrast to our more difficult earnings growth in the United States. Also the reduced acquisition policy in the United States which has been followed in recent years.

[2429] Contrary to the past, the management and organization of ITT in the U.S. has currently reached a point that it can

profitably and capably take on acquisitions of selected types and staff them for improvement in earnings and for control in a manner that might not have been possible up to this point.

In general, therefore, looking at the above figures and certain world trends, it would appear that we are at a time when we should formally start a goal program for acquisition.

The serious trends which lend emphasis to this and which will have greater impact over the next few years lie in certain danger signs which are beginning to accrue in respect to long relied upon foreign earnings over the period of the next decade and which cannot be ignored in view of the implications to these present important earnings of the company.

For the first time in four decades at the present moment the tides of U.S. prestige are admittedly running lower than ever before throughout Europe in particular. These trends will be felt rapidly by foreign businesses of U.S. ownership particularly in that they encourage any number of obstacles from the standpoint of government and government bureaus and their incumbents as well as coalition of foreign businesses as against such companies lacking the deterrent of former U.S. prestige and position support.

The recent exchange with France and de Gaulle is perhaps sharp in bringing this trend to light. Moreover, this has taken place when our gold supply is at a very low ebb and is partly in the hands of these same European nations who can be counted upon to use them for pressures on U.S. business intrusion. There has also been talk of U.S. capital licensing in the last six months in U.S. fiscal circles. While this is presently discounted, it can be revived quickly. Unquestionably such licensing of export of U.S. capital may well call for retaliatory measures which may in turn limit our own company's ability to remit funds for dividends.

In back of this is the further possibility of changing European recognition of the Russian situation. These changes may well run to the possibility of deals between Europe and Russia such as have already started in Italy and have been spoken of recently in the petroleum field in England.

In France there is now a strong anti-U.S. sentiment setting in and U.S. ownership of companies in that country will be heavily

scrutinized. [2430] French partners that bring in U.S. capital may well be subjected to harrassment as has been locally suggested.

In England, the new labor movement has set for its goal a nationalistic policy and to a degree an anti-U.S. policy. Last week a socialist document circulated called for the nationalization of certain companies *including our STC company.*

In Belgium, the general thought will be much like France.

In Italy, we have seen a continuous wave for some six months now of ill-founded strikes which if not aided by Government have been at least allowed to continue as the Government itself is committed to a semi-Leftist approach and to increasing nationalization of industry. The first of the Russian deals for oil was made in this area.

In Germany, we have a friendly government largely founded perhaps on nearness to the Russian border. However, there will be and are questions arising about their basic policy in relation to the U.S. and at any one time any of these areas there may emerge as a problem as problems themselves may rise within that country, including pressures from its European government and business partners.

Overshadowing all of these facts in Europe for ITT is the basic change taking place through the medium of the Common Market in the supplying of our PTT markets. More and more, the PTT ministers are comparing notes, cost quotations and pricing and, if at least sourcing is not changed, pressures will be brought to bear on our basic price and in profits in selling to the PTT's. *Almost two-thirds of our income in Europe is derived directly from these PTT fields.* The Common Market pronouncements themselves if and when followed, would call for complete compulsory international bidding for all PTT supplies without reference to source country of manufacture. While it is admittedly early for this to take place, it is clear that under the Common Market intentions this is the drift and trend.

[2431] We move now to Latin America, our other large area of source of income, accounting for approximately 25 per cent of our 1963 earnings. There is as we have already experienced,

a strong emerging trend toward nationalism and a failure up to now on the part of the United States to control these trends as they affect United States' private business. Also an increasing tendency on the part of these countries as time and conditions permit to play one outside country against another. Particularly will this become further possible with the present split with Europe. Only recently De Gaulle has announced a program to enlarge French influence in Latin America as an example of these trends.

It is clear therefore that this area of our earnings must be decreased in its proportionate total contribution.

In speaking generally of our sources of earnings in Australia and particularly of our exports of Europe to the Far East and Near East. Predominantly these areas have been moving toward a local manufacture and increasingly Japan has been infiltrating these areas. These underdeveloped markets at the moment require specially long term finance from source governments of manufacturing areas and while these markets are not to be ignored they are at the moment not important in our total volume of earnings but certainly they do not auger for high U.S. prestige and future penetration of these markets as against the factors mentioned.

In retrospect then, it would appear that over the next decade our earnings for both fiscal, nationalistic and other reasons derived from abroad will be subject to increasing pressures pricewise, sourcewise and ownershipwise than in the past. Also that we may well have fiscal and other types of interference derived from the greater political problems of the United States' position in relation to Europe and other areas and in turn what actions might take place out of these pressures are unknown except that they will in general tend to be less favorable than in the past on an increasing basis.

When one looks in therefore back to our last paragraph when it is apparent that only 18% of our earnings and less than 50% of our dividend requirements are being earned in the United States, it is clear that we must organize a goal program for acquisition.

Policy

Size of acquisition program. If we accept as our immediate goal objective an increase in U.S. earnings to at least equal our U.S. dividend payout we would have a *first immediate goal on an acquisition.*

If we assume that *second and longer-term goal* for perhaps five years from now to reach a 55 percent U.S. versus 45 percent foreign source ratio of earnings for dividends, because of the present disproportion of earnings and * * *

[2435] 5. *General Comments*

In general comment, I might add that it will not be easy to carry out this program under present conditions. The growing trend of the world, on which we have commented above, is well recognized by investors and is increasingly having a weighing effect on the value of our stock. In spite of the fact that our earnings are operating at new, historical highs, our stock is selling currently hardly more than 10% higher than it was four years ago. There is no question in my mind that there will be periods ahead when under buoyant conditions our true earnings will be more readily recognized in the evaluation of our stock, but it is also increasingly clear that there is a market change taking place in the general confidence of the American investor in all foreign operations and sources.

In other words I think we should seek and take all good opportunities as they present themselves up until such time, at least, as we feel that our competence as a management has been stretched too wide in scope and we must of necessity slow down such a program.

To the degree that we are able to select good companies and are able to pay reasonably for them, to that degree the strain on our management situation will be lessened as against picking up distressed situations. We will, also, as part of this program, continuously, as we have, be bringing executives into our company for the purposes of transfer into our line divisions and for development of both our new and older employees to move into new situations as a matter of representation for the company.

H. S. GENEEN.

[2461] [Federal Communications Commission, Exhibit No. J–188; presented by Justice Dept.]

OUTLINE FOR TALKS AT WHITE, WELD & CO. ON SEPTEMBER 15, 1965, AND NEW YORK STOCK EXCHANGE—SEPTEMBER 17, 1965

INTRODUCTION

Our management has completed its sixth year at the helm; it appears to be a good time to review the progress which has been made in the past five or six years, and to look at what we see ahead over the next five years.

First a few highlights:

Size of ITT Today

5th largest in terms of employees.

31st in sales among Fortune "500", 41st two years ago; 52nd in 1959.

World's largest supplier of telecommunications and electronics equipment.

Now I would like to spend a few minutes to show what we have accomplished in the last five years, and then I will discuss how this has been brought about.

During the five-year period from 1960 through 1964:

Sales and revenues rose 100% from $765 million to $1.542 billion.

Importantly, while our sales went up 100%—our people only went up from 136,000 to 185,000 in this period, or 32%.

But size has not been our preoccupation. We feel that earnings—and particularly *earnings per share* are far more important.

In this same five-year period 1959–1964, net income increased 117 per cent—from $29 million to $63 million.

[2462] *Earnings per common share* climbed from $1.90 to $3.11, an increase of 63%. (If the earnings in 1960 from Cuba are excluded, the increase would be *82%*.)

But as a matter of strength, we feel that *consistent growth in earnings* is important. (24 consecutive quarters of year-to-year increases in sales, net income and earnings per share.)

In this respect, as a check on our own performance, we took all the companies listed on the N.Y.S.E. that were over $750 million sales in 1959 and determined the compound rate of growth in their per share earnings between 1959 and 1964.

In this survey we ranked #11—with compounded rate of slightly over 10% growth in earnings per share for the period. (By contrast, some other growth rates were: Du Pont 4%, General Electric 2%, Westinghouse and Goodrich 0% and group average was 6%).

Simply stated, I believe this 5-year record clearly establishes ITT today for your consideration as one of the world's top major growth companies—and we intend to keep it that way.

In assessing the basic strengths of the company in 1959, it was apparent that Europe represented the most promising area of growth, but it was apparent that there was a great deal of room for improvement.

Therefore, as part of our theory to *put our money on the winning horse,* we established the following order of priorities: Europe, Latin America, International Communications and the United States. Let us examine, in turn, what has been accomplished in each of these areas.

[2463] EUROPE

Now let me trace some of the steps we have taken in Europe in this period:

1. Plant program of $225 million. From $15 million per year in 1959, to $40–$50 million per year in 1961–64. Space from 10 million to 20 million sq. ft. New equipment—new factories or laboratories needed to meet expanded demands and delivery times particularly in export market.

2. Control of inventories and receivables. Reduction in required working inventory level of $150 million. Assets per $ of sales were cut from $1.12 to 86¢ in 1964, with goal of 75¢. Saving of some $225 million.

3. *Products in Europe*

A. *Telephones.* ITT is foremost in Western Europe in telecommunications; equals other two competitors combined. Over $500 million per year in Europe in these products—growing about 10–12% per year, and non-cyclical. 66% of our Euro-

pean sales in this market. 315 million population Europe; 190 million U.S. Another $24 billion to catch up in our markets alone. ($600 per line)

B. *Components.* Europe-wide sales organization—sales to commercial and industrial customers. 10% of European sales in 1959, little less than $100 million in 1964. Clevite and Fairchild will increase in 1965.

[2464] C. *Consumer Products.* Losing money in Germany and U.K. in 1960. 1964 sales $136 million plus $15 million Oceanic ($190 million in 1965)

4. *Management*

We now have probably most effective group management in Europe of any (American) company, operating as a highly integrated team.

A. In Brussels, approximately 125 executives. High level, multi-national aggressive regional staff made up of Product Line Managers, financial staff, manufacturing staff, research and development staff.

B. EAC and SAB groups monthly meetings in Brussels bring to bear judgment of European managers on major company policy and operating problems. People running the jobs make good, fast decisions.

C. In terms of man days, approximately one year of last five years spent on analysis and decisions on company problems. These groups are *action* groups.

Let us look now for a moment at over-all European results which have flowed from this controlled action program:

1. Sales have increased from $363 million in 1959 to $775 million in '64

2. Earnings have increased from $12 million in 1959 to more than $30 million in 1964.

[2465] LATIN AMERICA—SECOND OBJECTIVE

Our specific objectives were to:

Protect our properties against expropriation and restore investor confidence in South American operations.

Secure rate increases for our utilities.

Meet our construction commitments in our telephone operating companies.

A. In the matter of rate increases, we have been firm and insistent, and this has paid off. In Chile, we received two rate increases last year amounting to 48%, and one in 1965 to keep even with the gold peso.

B. Arranged AID guarantees where available—$55 million on ITT investment in Chile—cover 75% of equity.

C. For the future, in Chile and Peru, all expansion will be financed at the local level and will include the use of loans from U.S. or international lending agencies, financing from local subscribers and local government financial support.

INTERNATIONAL COMMUNICATIONS

A third objective was to make a real business out of our traditional worldwide international communications activity. What have we done?

A. Acquired the 43% minority interest in AC&R as first step.

B. Eliminated duplications in management between our AC&R companies and our radio companies.

[2466] C. Eliminated duplicated facilities and scrapped obsolete cables (about $5 million tax credit).

D. The results have been gratifying. Earnings have risen from $3.8 million in 1959 to more than $8 million in 1964 and curve for future is upward.

UNITED STATES—FOURTH OBJECTIVE

This brings us to the United States Market.

Our objectives have been:

1. Increase the U.S. portion of our total earnings.
2. Reduce the proportion of our government defense area as our principal market.
3. To establish ITT as a broad-based, strong, technically-oriented communications company in the U.S. itself, operating principally in *growth* areas.

A. Acquisitions in the U.S. will earn in 1965 substantially more in per share of ITT earnings than our own overall company. Earnings of acquisition companies in U.S.

in 1965 will be more than one-third above 1964. (Bell & Gossett $2.4 million in 1963 to $3.8 million in 1965).

B. Much of our recent expansion in the U.S. has been through acquisitions. Since 1959 we have added to our U.S. sales about $400 million through acquisitions (including Avis). Our growth has been approximately 2/3 from within and 1/3 through acquisitions.

[2467] C. With conclusion of recent Fairchild know-how agreement and purchase of Clevite Semi-Conductor Division, ITT will have a very broad product line in the semiconductor field.

D. Our military activity, where we have been about the 20th largest military supplier, remains important to us, and we are working hard to increase our position and to improve our margins. Here again, earnings in 1965 will show significant improvement over 1964. Military sales have dropped as a per cent of total U.S. sales and revenues from 62% in 1959 to 49% in 1964.

We have made good progress in achieving our first objective—to increase share of U.S. earnings. (Chart showing ratios in 1959 vs. 1965; U.S.-Foreign; Manufacturing vs. Services).

1. U.S. earnings as percentage of dividend rose from 53% in 1959 to more than 80% in *1964: In 1965* U.S. earnings should cover dividends on both common and preferred stocks for the first time.

2. U.S. earnings have increased from 28% of total company earnings in 1959 to 30% in 1964 and will amount to 40% in 1965.

Show Chart of 1965 Versus 1959

ANALYSIS OF EARNINGS (OPTIONAL)

If we now look behind the overall improvement in our earnings as shown in these charts (or figures), the reasons for the improvement become more apparent:

[2468] 1. Domestic earnings have grown from $5.5 million in 1959 to $33 million in 1965 (before allocations) Equal to National Cash Register or Litton.

2. Foreign earnings from $21 million to $53 million.

3. Total manufacturing from $16 million to $51 million.

4. Objective is 50–50 division of earnings between U.S.-Foreign and Manufacturing and Services—within next several years.

Most important, approximately 80% of our total earnings are now in areas with above-average growth potential:

Communications and Service area (42%) with annual growth rate of 16%.

European telecommunications (39%) with growth rate of 12%.

Commercial & Industrial Products, principally electrical & controls and speciality temperature products (10%) with growth rate of 10%.

Thus, 80% of earnings have composite growth rate of 14% compounded annually.

ACQUISITION PROGRAM

Now that we have seen the basic change in ITT from 1959 to what it is today, and what we envision for the next five years, it is obvious that this change would not have been possible except for our acquisition program, which I will turn to next.

As a result of acquisitions, our U.S. earnings today are larger than total earnings of some major U.S. companies, such as Litton, National Cash, Corning Glass, B.F. Goodrich and United Aircraft—to mention a few.

These acquisition earnings have not been a case of "growth for growth's sake", but instead they have followed our objective of achieving *"balanced, growing, worldwide earning power"*.

This leads me now to a discussion of our overall acquisition program; what our philosophy is; and to indicate what some of our thinking is in this area.

[2469] We classified the various types of business in terms of desirability and "low" risk factors, such as:

Consumer utilities

Quasi-protected consumer markets—TV broadcasting
Business services—subscription data processing
Consumer hard goods—TV and radio manufacturing
Capital goods—computers, office equipment
Electronic components
Military

Our acquisition efforts are directed towards consumer areas which combine *low risk, low risk in management and high returns.* (Particularly in the consumer services and financial services).

Our financial services acquisitions and business services, i.e., Avis, subscription date processing—fit these requirements. Moreover, they have above average growth—Avis growing, for example, at *25%*; Aetna at *15%*.

Guidelines on Acquisition Program:

Carefully and soundly planned for long-term growth, particularly in communications and service areas in U.S. where we see both high rate of return and good potential for growth.

Acquisitions must have growth potential for Europe—examples such as Aetna, Avis, Hamilton.

Acquisitions must have better growth than overall ITT—Avis, Aetna.

[2470] ITT contributes something to each acquisition—high degree of financial background among ITT executives in areas such as insurance, banking, credit and mutual fund industries.

Bell & Gossett, Aetna and Avis are good examples of ITT management's ability to manage money and manage people so as to achieve faster growth than before they joined ITT System without sacrifice in basic soundness of earnings.

Acquisitions are two-way streets—ITT contributes something to each company, but in turn these companies provide pilot line for ITT management in United States. "Cross ruff" policy to Europe.

ITT'S GROWTH POTENTIAL 1965–1969

Up to this point, we have looked at ITT's record of progress over the past five years, and at what kind of company ITT is today. Let us now peek into the crystal ball for a glimpse of what we see ahead for this company.

1. Sales to double in next five years—from $1.5 billion to more than $3 billion

2. Two-thirds of this growth to come internally; one-third through acquisitions, with emphasis on communications and service in U.S.

3. Net income and per share earnings to grow in same pattern as in past five years about 12% annually.

HOW WILL WE FINANCE THIS FUTURE GROWTH

Same pattern as in past five years, in which:

1. No sale of equity securities

2. Financing was done principally from retained earnings and depreciation and reasonable short term borrowing ($135.0)

[2471] 3. Our long-term borrowing of $255.0 was well supported by our increase in equity from both retained earnings and stock given for earning acquisitions.

4. Our over-all system-wide debt-equity ratio moved from 28% to 32%.

5. Most important to this accomplishment is the equivalent of some $225 million that was made available to the needs of this growth by the better control of working assets we spoke of.

Communications Activity

We are often asked "Why not buy U.S. telephone companies?"

Answer is two-fold:

1. Available ones are priced too high;

2. AT&T and GenTel already have 92% of market;

However, you may be surprised to know that our total investment in communications is something over $250 million, consisting of:

Comsat, Latin American Telephone companies, Puerto Rico Telephone, Virgin Islands, and other investments.

SUMMARY

1. We are proud of our record of growth over past five years and the fact that we are building, even though a large one, *a growth company.*

[2472] 2. We are building on a strong growing base of products in Europe, our international communications are expanding at a record place, and we have now built a foundation in the U.S. which will serve as a "launching pad" for our future objectives in this area.

3. We now have a broad management in place and momentum.

4. We are confident of attaining our objectives over the next five years and that they will be as successful as the last—perhaps easier.

[2473] [*Federal Communications Commission,* Exhibit No. J–189; presented by Justice Department]

THE MUTUAL FUND INDUSTRY

The reasons we recommend ITT entering into the Mutual Fund field is because it opens high controllable growth earnings in the "*financial services*" field which has moreover many of the opportunities of "insurance growth" for the future.

The mutual fund industry is today one of the fastest growing industries in the United States and its assets have more than quadrupled over the last ten years, growing at an annual compound rate of 17% since 1954. In many ways, however, it can be said that the surface has hardly been scratched in terms of the potential market that exists for mutual fund shares and the newer "equity endowment insurance" contracts. The $25 billion of total assets under fund management at the end of 1963 is still small in comparison with the older institutions of life and endowment insurance, which increasingly mutual fund investment, with their recognition of "inflation" are invading. The same applies to savings and loan associations. For instance, mutual fund assets are only some 10% of current sav-

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ings deposits of $245 billion. Mutual funds are also quite small, of course, when compared with the direct ownership of stocks. The annual gross sales of fund shares is less than 6% of the total dollar value of stocks traded on the New York Stock Exchange alone.

The reasons for this four hundred per cent growth in ten years have been well publicized. It is, in part, based on the old values of diversification and continuous professional management which the funds are able to offer the small investor, but increasingly for the far better performance in terms of income and capital appreciation that fund shares offer through equity investment than alternative * * *.

[2482] 3. The penalty feature of contractual plans affords the advantages of life insurance (a forced saving) without having all the disadvantages of the purchase of straight life insurance.

With the consistent liberalization of social security and corporate pension fund benefits, greater recognition is being given to the media through which inflation protection is available. Young adults having watched their parents' anticipation of retirement on a "modest, but adequate" fixed payment from insurance, social security, etc., only to find the purchasing power of the saved "hard dollars" withered away by the ravages of inflation would provide a ready market for "Equity Endowment Insurance."

While it has been mentioned that the mutual fund industry in the United States has hardly begun to scratch the surface of its available market, this is, of course, *even more true overseas*. There is no reason to believe that the pattern of growth in savings and investments in Europe, for instance, over the next decade, will not parallel the United States' experience in the 50's.

In fact, 175,000 employees of the Company already form a considerable internal market, as they would for any insurance project.

There is little doubt that entry into the mutual fund industry by ITT should have a favorable influence on the Company's corporate image. Not only would it indicate management's vision and awareness of the favorable outlook for the area of

"financial services," but it would also serve as a base on which to build a full complement of these services. This is increasingly the trend in corporate America and the already referred to entry of Sears into the business is * * *.

[2608] [Federal Communications Commission Exhibit No. J–196; presented by Justice Department]

BAKER WEEKS & CO., GROUP BROADCASTERS (PROGRESS REPORT)

	Approximate Price (Oct. 5, 1964)	1964 Price Range	Estimated Earnings 1964	Estimated Earnings 1965	P/Estimated, 1965 Earnings	Div.	Yield (Percent)
Capital Cities	34	37–20	2.10	2.60	13.1	Nil	----------
Cox	25	30–16	1.25	1.60	15.6	0.40	1.6
Metromedia	37	39–27	2.50	3.25	11.5	0.70	1.9
Scripps-Howard	22	23–18	1.25	1.40	15.7	1.00	4.5
Storer	47	50–38	3.55	3.90	12.2	2.00	4.2
Taft	38	41–23	[1] 2.75	[1] 3.25	11.8	0.60	1.6
Wometco	32	35–30	1.60	1.90	16.8	0.56	1.8

[1] For fiscal year ended March 31 of following calendar year.

Summary and Conclusion—Overall

Despite generally higher prices, the stocks of group broadcasters now are selling at earnings multiples no higher, on the average, than last November, the date of our previous report. We have stated previously the reasons for our view that the group broadcasters at 12 to 17 times earnings are undervalued. Recent developments in such areas as industry operating trends, UHF, FCC regulation, pay TV and community antenna TV—all discussed in detail in the body of this report—do not provide any reasons for altering this view. We therefore continue to recommend all of the stocks for new commitments. At the respective present price levels, we think that Capital Cities, Metromedia and Taft are particularly attractive in terms of potential intermediate capital appreciation.

Summary and Conclusion—Individual Companies

Capital Cities continues to record superior earnings growth from most of its properties. Comparisons during the second half and for most of 1965 will be also helped by the inclusion beginning September 10 of several former Goodwill stations.

We estimate earnings for the year at about $2.10 per share vs. $1.58 reported for 1963. Another significant increase to perhaps $2.60 per share appears to be a reasonable expectation for 1965. The stock, at around 34 now, has shown a substantial appreciation during the past year or so, but the multiple is a still-conservative 13-plus based on our 1965 projection. While the heavy debt and the absence of dividends might limit the stock's appeal from conservative investors' standpoint, we continue to regard the equity as one of the more attractive in the group in terms of intermediate capital appreciation possibilities.

Since this is our initial coverage of *Cox,* we think it pertinent to point out that the Cox stations are indicated to constitute one of the most well-balanced lineup of TV (and to a lesser extent radio) stations among group broadcasters and that the management appears to be well-regarded and capable. Because of the 30%-plus increase in common shares as a result of the initial stock offering last April, per share earnings this year will show no significant change from the $1.19 (pro forma) of 1963—around $1.25 per average share or $1.15 per present share—despite a substantial increase in net income. However, 1965 earnings are likely to show a significant increase to perhaps $1.60 per share, assuming the inclusion of the Pittsburgh TV station (which the company plans to acquire subject to FCC approval) for the full year. The stock has performed quite well since its April offering at 16¼, and the present price of 25 makes its multiple one of the highest in the group. The equity nevertheless continues to be a suitable investment vehicle, in view of the company's solid basic position and the still reasonable (as compared with common stocks generally) market valuation.

Metromedia is likely to report earnings of $2.50 per share or more this year, vs. $2.13 in 1963, despite a sharp increase in depreciation charges. (Cash flow probably will exceed $6.00 per share this year, vs. $4.55 in 1963.) Since depreciation charges will be leveling off next year (barring additional acquisitions), earnings are likely to show a sharp improvement, perhaps to the $3.25 per share area. The company is currently looking for a TV station, preferably in a major market, to replace the Sacramento station sold a few months ago. If the search comes to a success-

ful conclusion by early next year, the $3.25 figure could prove conservative. The stock has had a relatively sedate performance during the past year or so and, at the present price of around 37, appears to be one of the more attractive in the group from an intermediate standpoint.

Scripps-Howard has had a relatively static operating record during the last three years; earnings this year are likely to be around $1.25 per share, vs. $1.17 in 1963 and $1.20 in 1962. There are no clear-cut explanations for this below-par performance and, for that reason, it is also difficult to predict when the historical growth trend will be resumed. In view of the generally favorable industry outlook for next year, we are tentatively projecting earnings of around $1.40 per share.

[2610] The stock at around 22 (bid) sells at close to 16 times this projection, which multiple is one of the highest in the group. Until there are more concrete evidences of a resumed growth, the stock's appeal is limited primarily to the relatively high yield of 4.5% provided from the $1.00 annual dividend.

Storer had an excellent second quarter, with net income increasing some 27½%. For the full year, we look for earnings of around $3.55 per share vs. $3.12 last year (on ending shares before a non-recurring loss). Another 10% improvement to the $3.90 per share level appears to be a reasonable expectation for 1965. As relatively the most mature of the group broadcasters, the company's growth rate over the longer term might be somewhat more moderate than those of most others; it nevertheless should comfortably exceed that of the average industrial company. The stock at around 47 sells at a conservative 12-plus times our 1965 projection. It also provides a liberal 4.2% yield from the current $2.00 dividend. These characteristics continue to make the stock an attractive long-term investment.

Taft is likely to show a major increase in earnings for the fiscal year ending next March 31, partly because of the inclusion of several former Transcontinent properties from last April 1 and partly due to significant improvements being recorded by most other properties. We estimate earnings for the current fiscal year at $2.75 or more vs. $1.49 last year. Since management has not yet had the time to bring the newly

acquired properties to their optimum levels of efficiency, comparisons are likely to continue favorable well into the next fiscal year, leading to earnings of $3.25 per share or more. The large debt incurred to finance the Transcontinent acquisition does not make the stock significantly more speculative than previously, since annual debt service requirements will be comfortably less than minimum probable cash flow of the company. The stock at around 38 capitalizes the $3.25 projection at less than 12 times; it continues to be relatively one of the more attractive in the group despite recent strength.

Wometco continues to record excellent growth. As we previously noted, this is more or less the only situation among the seven which affords investors the regional approach to investing (as available in public utilities and banks). The region in this case is the fast-growing state of Florida, which—together with the company's aggressive acquisition program—has contributed to the superior recent growth record of the company. We estimate the company's earnings this year at $1.60 per share or more vs. $1.25 in 1963; earnings in 1965 are projected at $1.90 or more, without any further acquisitions. The company's growth prospects continue to be above-average, and the stock at 32 (bid), slightly less than 17 times the 1965 projection, seems reasonably priced.

*   *   *   *   *

[2611] *Industry Operating Trends*

The television broadcasting industry continues to grow at a relatively fast rate. According to statistics released by the Federal Communications Commission, total industry revenues rose to $1,395 million in 1963 from $1,304 million the previous year, representing a 7% increase, despite the four-day absence of commercial programming following President Kennedy's assassination last fall. The nonnetwork segment alone showed an even greater gain; the combined spot-local business in 1963 was up 9½% over 1962, with the spot segment leading the way with a gain of more than 11%. According to monthly estimates made by *Television Age*, a trade publication, the industry continued to record above-average gains during the first half of this year. The spot business showed a 10% in-

crease, while local sales gained over 21% during the period, according to these estimates; network compensation to affiliates rose some 5½%. It appears that the gain for the non-network segment of the industry will show a greater increase for the full year 1964 than it did last year, the figure probably exceeding 10%. Barring an unexpected setback in the general economy, another substantial growth appears in store for 1965.

As our August 1963 study revealed (Table III on page 14), TV station profit margins have been widening in recent years; the industry pre-tax margin had widened from 16.1% in 1958 to 20.2% in 1961. After jumping to 23.7% in 1962, the margin last year leveled off at 23.0%. A review of the historical pattern shows that improvements in profit margins come in spurts rather than in a steady year-to-year climb. The figure for each year is dependent to a considerable extent on the number and size of new stations, which are likely to start off in the red, and the number and size of station transfers, which often result in sharply stepped-up initial depreciation charges. It appears that the slight narrowing of the margins in 1963 represented no more than another temporary phenomenon; based upon the first-half results of the publicly-held group broadcasters, it seems probable that the margins this year will resume their widening tendencies. The projection made in our original study of a 10% average growth in per share earnings for a typical group broadcaster continues to be a very reasonable intermediate expectation.

One of the doubts which apparently continues to be held by some investors concerns the "maturity" of major TV markets. As the major groups approach or reach the maximum number of station holdings permitted by the FCC and as their trading-up process continues, it is argued that their growth rate will be gradually reduced to negligible proportions by their increasing reliance upon the growth of the individual markets themselves, which are supposedly reaching the fully mature status. Table I should go a long way in dispelling such doubts; it shows robust growth for each of the ten top U.S. markets during the past two years. In fact, the only exception to this statement concerns profits of the Washington market, which

apparently were held down last year primarily by the start-up early in the year of a UHF station. Incidentally, the table shows that growth rates vary from market to market; different market patterns tend to balance out for a group, enabling a relatively steady overall year-to-year growth.

[2612] TABLE I.—*Major market operating trends*

[Dollar amounts in millions]

Market	TV Homes (in thousands)	Commercial Stations [1]	1963	1962	1961	% Change 63 vs. 62	% Change 63 vs. 61
New York	5,480	6					
Rev			$93.6	$84.4	$76.9	+11	+22
Inc			38.6	37.7	32.6	+3	+18
Los Angeles	2,784	9					
Rev			61.6	56.6	45.2	+9	+36
Inc			15.2	13.9	8.1	+9	+88
Chicago	2,346	4					
Rev			53.5	48.7	43.3	+10	+24
Inc			21.2	19.0	15.8	+11	+34
Philadelphia	2,113	3					
Rev			31.7	30.3	25.8	+5	+23
Inc			12.9	12.3	9.5	+13	+36
Boston	1,838	3					
Rev			25.0	24.0	21.0	+4	+19
Inc			12.6	11.8	9.7	+7	+30
Detroit	1,612	3					
Rev			21.0	20.2	18.0	+4	+17
Inc			9.8	9.3	7.8	+5	+26
San Fran.-Ore	1,456	4					
Rev			25.4	22.3	18.1	+14	+40
Inc			11.2	9.1	6.4	+23	+75
Cleveland	1,353	3					
Rev			21.3	19.7	17.3	+8	+23
Inc			10.4	9.6	7.9	+8	+32
Pittsburgh	1,257	3					
Rev			19.2	18.5	16.0	+4	+20
Inc			8.6	8.2	6.3	+5	+36
Washington	930	5					
Rev			15.3	14.6	12.9	+7	+19
Inc			3.7	4.2	3.5	−12	+6

Source: Federal Communications Commission.

Rev.—Total telecast revenues in market.

Inc.—Total telecast pre-tax income in market.

[1] As of 1963, including UHF. New stations started during this period in Los Angeles and Washington, which probably added to market revenues slightly but may have reduced market profits initially.

UHF Developments

The "all-channel" law, which requires all TV sets shipped across state lines to be equipped to receive UHF as well as VHF channels and which is intended to help develop the UHF spec-

trum, went into effect in May. So far, however, there has been no rush to build UHF stations. During the first nine months of 1964, just three new commercial UHF stations—in Chicago, Dayton and San Juan—and four educational UHFs came on the air. (Three commercial VHF's—in Corpus Christi, Tex.; Redding, Cal.; and Walker, Minn.—and seven educational VHFs also started operations during the period.) There are a total of only 122 UHF stations, including 36 educationals and 10 satellites, on the air at the present time, whereas there are some 1,600 UHF channels available, with more to be allocated in coming months. So far this year, some 40 applications for commercial UHF stations and 12 educational UHFs have been received by the FCC, bringing the total pending to 114. However, this figure includes a considerable number of competing applications involving a few of the more [2613] attractive channels. Construction permits for about ten commercial and five educational UHFs have been granted so far this year, bringing the total outstanding to 67 and 23, respectively. There is no guarantee that all these stations will be eventually built, however.

Even though the all-channel law has been in effect for several months, considerable portions of retail TV sales continue to be in the VHF-only sets. This is because the distribution pipelines were filled last spring with perhaps two million VHF sets, in anticipation of continued demand by consumers who do not want to pay $20–30 extra for UHF reception, which is not now available commercially to nearly 90% of TV homes. In the ten-year period between 1954 and 1964, some 7.6 million all-channel sets were sold. However, 3.6 million of the total were sold in the 1954–56 period, when there was still considerable optimism about UHF; these sets probably will be scrapped over the next several years. Furthermore, a large portion of all-channel sales in the past has been made in markets with entirely or primarily UHF service. It therefore appears that it will be another five years before a majority of TV homes are equipped with UHF sets, nearly a decade before UHF achieves a practical saturation of TV homes. The continued slow UHF construction activity is understandable in these circumstances.

It should be emphasized that not all UHF stations are unprofitable. (Nor are all VHF stations profitable.) Table II reveals the fact that a majority of UHF stations reported black-ink operations in each of the last two years, although none showed large profits (over $400,000 pre-tax). However, it is probable that most of the profitable stations operate in markets with no VHFs, such as Bakersfield, Cal.; Fort Wayne, Ind.; Peoria, Ill.; South Bend, Ind.; Youngstown, Ohio; and Wilkes-Barre/Scranton, Pa. (Of these three-channel markets, Bakersfield reported a slight overall deficit in 1963, while others were comfortably in the black.) On the other hand, UHF stations in intermixed markets generally appear to be experiencing rough going, even where they have network affiliation. A UHF station which can deliver only about one-fifth as many viewers as its VHF competitors (as in the case of Knoxville, Tenn.—a not atypical example) cannot expect to be very profitable.

TABLE II.—*Operating experience, UHF vs. VHF*

	VHF			UHF		
	1963	1962	1961	1963	1962	1961
Number of stations [1]	455	448	439	78	75	71
Number reporting profits	378	362	346	45	43	28
Percent of total profitable	83.1	80.8	78.8	57.7	57.3	39.4
Number reporting profits of:						
$400,000 and over	156	147	127	0	0	0
200,000–400,000	57	49	52	5	3	2
100,000–200,000	71	73	48	13	16	10
less than 100,000	94	93	119	27	24	16

[1] Stations operating full year only.
Source: Federal Communications Commission.

[2614] As the number of all-channel sets in use increases, existing UHF stations in markets with one or more VHFs are bound to experience some improvements in their competitive position. If a UHF has network affiliation, its gain might be to some extent at the expense of its VHF competitors. However, any losses by the VHF are likely to come only gradually, over a period of a decade or more. Furthermore, any improvement in a UHF's circulation is likely to attract more advertising dollars to its market; Knoxville, for instance, now obtains significantly less TV dollars than similar-sized markets with three

VHFs. There is also the substantial likelihood that UHF might never be fully competitive with VHF due to technical factors, as discussed in our August 1963 study. While UHF transmission and reception might well be improved in future years, UHF's effective coverage area (now usually within 25–30 miles of the transmitting tower vs. 55–60 miles for VHF) probably will remain substantially smaller than that of VHF.

Because of the necessarily gradual manner in which TV homes will be converted to all-channel sets, most existing UHF stations as well as those now going on the air are likely to experience at least several more years of unprofitable or marginal operations, with relatively slow year-to-year improvements. Consequently, new UHF start-ups might continue to be relatively few and far between. In addition to all-UHF areas and larger markets with less than three VHFs, new UHFs are likely to come in the top dozen or so major cities. Thus, construction permits are outstanding for UHFs in Boston, Chicago, Detroit, Linden (Metropolitan New York), Los Angeles, Philadelphia, San Francisco, and Washington, among other places. Experience has shown that there is room for successful operation of stations (TV or radio) aimed at special audiences, such as minority ethnic groups, and many of the forthcoming UHFs might well follow this course. If so, they are likely to rely largely on specialized sponsorship, with existing VHFs being affected very little, if any.

It is significant that group broadcasters (including the three network groups), which are long on broadcasting experience as well as financial resources, have generally shown little interest so far in entering UHF broadcasting. Among the seven groups covered in this study, only Metromedia and Taft own UHF stations. (All of these are in UHF-only markets and are indicated to be profitable operations.) The groups with active interest in UHF often seem to be either those somewhat late in establishing strong VHF positions—such as Kaiser Broadcasting—or those finding profits in the specialized audience approach—such as United Television and Spanish International Broadcasting. We continue to think that there will not be materially more than 100 new commercial stations (mostly UHFs) going on the air during the next five years. Since most

of them probably will start off with rather modest revenues and build up their operations only gradually, their effect on the overall TV industry is likely to be quite limited. Thus, existing TV stations generally appear to have relatively little to be concerned about competition from new stations at least for several years, although there might well be individual exceptions.

[2615] *FCC Activities*

In retrospect, the trend toward a tighter FCC control of the broadcasting industry, which had been observable for several years, apparently reached a peak, at least temporarily, in March 1963. It was then that the Commission, by a 4-to-3 vote, announced its plan to issue notice of a proposed rulemaking to limit the length and frequency of TV and radio commercials. The action came soon after the appointment of Kenneth A. Cox to the Commission and appeared to suggest the forming of a new majority favoring "tough policies." Chairman Newton N. Minow, the leader of this faction, resigned in May 1963, but it was generally felt that E. William Henry, who succeeded him as chairman, and Lee Loevinger, who was appointed to fill the vacancy on the Commission, will continue to maintain—even step up—tight regulatory policies.

However, Commissioner Loevinger has proven not to be a consistent supporter of the tough regulatory line. In fact, with the exception of multiple ownership rules, he has tended to favor more reliance on self-regulation on the part of broadcasters. In the meantime, a number of Congressmen became concerned about FCC activities. As noted in our November report, several objected in particular to the Commission's attempted rulemaking on commercials as being an illegal extension of its jurisdiction. Eventually, Rep. Walter Rogers, a Democrat from Texas and chairman of the communications subcommittee of the House Commerce Committee, pushed through the Commerce Committee, and later through the House, a bill prohibiting the FCC from setting commercial time standards through rulemaking.

Last January, two months before the Rogers bill was passed by the House, the FCC unanimously decided to abandon the

commercial limit proposal. At the time, the Commission stated that it had not decided to pass up the subject entirely, that it intended to follow the alternative course of giving the matter closer attention on a case-by-case basis; the FCC staff was asked to bring up outstanding cases of over-commercialization for consideration and action. Last July, however, the Commission apparently withdrew even further from an active role in regulating commercials. In a series of 4-to-3 votes, the Commission declined to accept staff recommendations to consider commercial practices in granting license renewals to several broadcasters in the South. The Commission went further, instructing the staff to stop making recommendations relating to individual stations' commercial practices, at least for the time being. This does not mean that the FCC has abandoned the subject of commercials entirely, but it is indicative of the greater restraint apparently being exercised by the Commission in considering new areas of regulation.

At the present time, probably the only area of active FCC interest (aside from the UHF question) which could significantly affect group broadcasters has to do with multiple ownership rules. For one thing, the Commission is attempting to force an owner of the maximum permitted number of stations to sell one before applying for another. This already has had a concrete effect; Metromedia found it desirable to sell one of its five VHF stations before starting to negotiate actively for a major-market station, with a result that it presently owns just four VHFs. [2616] The Commission also recently adopted a rule to lengthen minimum mileage separation of stations under common ownership, with a result that group broadcasters will be somewhat more restricted than in the past in future station purchases. (Under the new rule, applicable only to future acquisitions, an owner of a TV station in New York, for instance, will no longer be permitted to acquire one in Philadelphia.) These moves by FCC, in addition to the constantly rising station prices, might have the effect of slowing down the upgrading process on the part of group operators in the future.

As mentioned in our August 1963 study, there have been suggestions from time to time to reduce the number of VHF stations an organization may own from the present five to three.

A special FCC staff, in a study issued in 1957, recommended the retention of the present numerical limit but a restriction of common ownership within the top 25 markets to three. More recently, an FCC staff recommended basing ownership limitations primarily on total population served. The proposal reportedly would prohibit—but only in connection with future acquisitions—an organization from having interests in TV and radio stations which, in the aggregate, serve more than 25% of the U.S. population. The Commission just completed a special review of this and other proposals for tightening the multiple ownership rules, without reaching any definite conclusions. Several of the Commissioners appear unsympathetic to any basic changes in the rules, and an action significantly adverse to group broadcasters is believed unlikely. As more groups with major multiple holdings develop, it will undoubtedly become increasingly difficult to make any significant rule changes without causing widespread disturbances throughout the industry.

One more aspect of the multiple ownership question warrants comment here. The FCC rules contain statements which in effect define "ownership" as any holding of the outstanding voting stock of 1% or more. By this definition, several mutual funds as well as a number of other investment organizations technically have violated the rule by owning 1% or more of shares in two or more organizations. Earlier this year, the Commission seemingly became aware suddenly of this long-existing fact; a few weeks ago, it issued a notice of inquiry and proposed rulemaking on the subject. The inquiry is intended primarily to seek suggestions on the method of obtaining complete and up-to-date information on broadcasting stock ownership; the rulemaking will enable the FCC to issue cease-and-desist orders against violating stockholders. Until a final decision is reached on the matter, the Commission is following an interim policy of permitting continued stock holdings in technical rules violation by those who agree not to vote their shares. The 1% rule seems rather unrealistic, particularly in view of the fact that considerably more than 1% of the shares of most publicly-held broadcasters are owned or controlled

by management groups, so 1% can hardly be considered ownership or control.

Pay Television

By far the largest portion of publicity in the pay TV area during the past year has related to the activities of Subscription Television, Inc., the West Coast concern which recently began operations in Los Angeles and San Francisco. The company, [2617] one of the first pay TV operations intended to be a fully commercial venture from the outset rather than a "test," obtained some $19 million through a public stock offering last fall, prior to which roughly $2½ million were put into the company by several sponsors. The company had the initial objective of being in commercial operation with 20,000 subscribers each in Los Angeles and San Francisco by July 1, 1964. Due to numerous problems, however, the start-up was delayed in both cities. Service was finally begun in Los Angeles July 17 with about 2,500 subscribers and in San Francisco August 14 with an estimated 1,500 subscribers. At the present time, subscribers are not indicated to be substantially more than these initial figures.

Because of the vast potential financial significance of pay TV to many segments of the economy, discussions of the subject have been often emotional and subjective. The STV venture has generated a particularly great amount of controversy; anti-pay TV forces have been very active in California, and they have succeeded in placing a referendum to outlaw pay TV there on the November ballot. There is no way of knowing its outcome; surveys have suggested that the voting might be very close. If the referendum is approved by the electorate, there undoubtedly will be lengthy litigation regarding its constitutionality. Even in the event of a victory at the polls, STV prospects are not entirely clear since the company appears to be in need of additional financing and since its ability to generate further investor interest appears questionable in view of its trouble-packed experience thus far. Reflecting these uncertainties, the STV stock now sells at around 8, well below the original offering price of 12. The company has tightened its belt drastically during the past month or so by stopping, at least

temporarily, production of special programs for its use and by furloughing over three-fourths of its clerical employees.

Overshadowed by STV, two other pay TV operations (both classified as "tests") have been continuing in Hartford, Conn., and Etobicoke, Canada. The latter, like STV, is a wired system, involving program transmission over specially connected closed-circuit cables. However, whereas STV customers are billed later, the Etobicoke system is based on cash payment on the spot. The operation was started in February 1960 by International Telemeter Corp. (a subsidiary of Paramount Pictures), the developer of the system, and Famous Players Canadian Corp. (controlled by Paramount), which has franchise for all Canada. The operation had somewhat over 5,000 subscribers at one time, but the coverage is now reportedly down to about 2,500. The drop-off seems to have been a result partly of subscriber cancellations and partly of the desire on the part of the operators to reduce losses by eliminating marginal subscribers.

The Etobicoke operation continues to incur deficits, and it might never be profitable since it was set up primarily as a test to study the feasibility of starting full-scale commercial operation; sponsors have expressed satisfaction with the experience and information gained from the test. International Telemeter has been actively seeking independent groups to operate local Telemeter franchises throughout the U.S., and it recently announced the granting of franchises to three separate groups for operations in Miami, Atlanta, Dallas and Houston. (The Texas franchises [2618] were granted to an organization which had Telemeter rights since 1961 for Little Rock, Ark., but has failed to begin operations there.) None of the groups so far has taken concrete steps to set up systems; it is possible that little will be done unless and until the STV operation gives some solid evidences of success.

In addition to the wired set-up pay TV can take the form of an over-the-air system similar to commercial TV. Unlike the wired version which now is not Federally regulated unless it involves interstate transmission, over-the-air systems are subject to FCC regulation, including licensing by the Commission. (It might be added that there is considerable support within the FCC for placing all pay TV systems—wired as well

as aired—under its jurisdiction, and some concrete moves along this line might well be forthcoming within the near future.) Because the Commission has proceeded rather cautiously on the subject of pay TV, in recognition of its potential impact on commercial TV, concrete developments in the over-the-air field have been quite slow in coming. The Hartford test—being conducted by a wholly-owned subsidiary of RKO General (owned by General Tire & Rubber Co.) using the Phonevision system developed by Zenith Radio Corp.—is the first and the only operation in this area.

The Phonevision test began in June 1962 under a three-year trial permission from the FCC. The system has built up slowly, and there are now close to 5,000 subscribers. The operation is still in the red, but RKO has indicated that it is not interested in increasing the system's coverage to over 5,000 homes while it remains a test. The future of Phonevision, and over-the-air systems in general, is even more nebulous than in the case of wired systems, since it is not clear when the FCC will be ready to grant permanent operating licenses. Phonevision's current test period will end in June 1965, at which time the Commission is supposed to consider the possibility of issuing a regular license. There appears to be a strong feeling within the FCC, however, that a single three-year test is not a sufficient preparation for taking such a major step. The Phonevision therefore might remain a test operation for at least a few more years.

The foregoing discussions make it apparent that pay TV still remains much more a fancy than a fact. As we have observed in previous reports, the best guess at this point seems to be that pay TV eventually will become a factor of some significance at future date. On the other hand, even the most optimistic of independent observers do not foresee pay TV as a true national force until the early 1970s. Furthermore, retention of a proper perspective is essential in evaluating the potential effect of pay TV on commercial TV. The fact is that in a typical U.S. home, the TV set is tuned in to a commercial program at least five hours a day, or 35 hours a week, throughout the year. Pay TV, even a decade hence and under most optimistic assumptions, is unlikely to account for more than a small portion of the total viewing time. Furthermore, commercial TV forces are follow-

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ing developments in the field very closely, and they would seem to be as well-situated as any in taking advantage of the field's potentials if pay TV gives indications of becoming a permanent, money-making force.

[2619] *Community Antennas*

Our previous reports on group broadcasters have not covered the subject of community antennas (CATV), primarily because this has been a relatively small and insignificant part of the broadcasting industry. The CATV service is still available only to a limited segment of the nation's population, but the industry has grown rather substantially over the last few years. Furthermore, because of CATV's apparently close relationship to pay TV, there has been an increasing amount of controversy about the subject both within the broadcasting industry and in Washington. Several group broadcasters, including Cox and Storer, have become owners of CATV systems; one group, RKO General, owns some 29 systems with 34,000 subscribers. We therefore think it worthwhile to review the CATV situation at this time.

A community antenna television system picks up programs, telecast by stations which are generally located at some distance away, and provides these programs to subscribers over microwave relays and closed-circuit wire set-ups. Pick-ups are made off-the-air, free of charge, while subscribers are charged a fixed fee which averages perhaps $5.00 per month. First developed in the hills of Pennsylvania and Oregon in 1949–50. CATV was originally intended (and still serves to a large extent) as a means of bringing television to communities beyond easy reach of regular stations. During the first decade of its existence, CATV grew steadily but rather inconspicuously. There were some 750 systems in operation by 1960, but most of these were in small and isolated communities where no TV stations were located.

During the past several years, however, CATV has begun to invade larger communities, including many markets which are served by one or more TV stations. Whereas the average town served by CATV in 1959 had a population of only about 9,000, service in cities with a population of over 100,000 is now

not uncommon. Thus, the number of subscribers has tripled during the last five years, while the number of systems has doubled to approximately 1,400. Actually, CATV is still not a very large part of the overall TV industry; it serves only about 1.6 million TV homes, or about 3% of the national total. The average system has only about 1,200 subscribers, which makes it almost insignificant in comparison with an audience available to even the smallest commercial TV station. However, an increasing number of smaller stations are finding direct competition from CATVs.

CATV actually benefits some commercial stations, since it in effect expands the audience of stations whose programs (and commercials) it carries. Over 400 commercial stations are now carried by CATV, and their rate cards generally reflect the incremental audience provided by CATV. On balance, CATV actually is still a plus factor for TV stations as a whole. However, stations in the markets fed by CATV may well experience reduction in audience from the programs provided by CATV, some of which may actually be duplications of those carried by local stations. Furthermore, CATV is picking up an increasing number of different stations, sometimes as many as 10 or more, thus providing diverse programming to subscribers. This and the increasing use of microwave relays to pick up [2620] distant stations have caused some local broadcasters to worry about the ultimate possibility of a nationwide CATV link feeding the programming of the most diversely entertained cities such as New York and Los Angeles to the entire population.

Thus, even stations not now adversely affected by antenna systems have become somewhat wary, and the FCC has been under an increasing pressure to regulate such systems. CATV now comes under FCC jurisdiction only where microwave relays are involved; for the remaining two-thirds or so of all systems which do not rely on microwave relays, only a local franchise or a public service permit is needed. The FCC has proposed a new rule, which would require CATV systems using microwave systems to agree not to bring in out-of-town programs which duplicate a local station's for 15-day periods before and after each program is shown and also to consent to

carry signals of a local station if the latter so requests. However, there is widespread agreement that a much more comprehensible policy toward CATV, including those not relying on microwave, is needed.

Many CATV operators have been vocal in their opposition to federal control, but apparently a majority tacitly support a limited form of FCC regulation, primarily because state and local regulation has been becoming increasingly restrictive and chaotic. Furthermore, CATV spokesmen are emphasizing that their systems are meant to be supplementary to, rather than competitive with, commercial TV stations. Indications are that CATV operators would be willing to agree not to originate any commercials or any programs, aside from certain service features such as time and weather. At the same time, it appears that most commercial broadcasters recognize (or are resigned to) the fact that CATV is here to stay and desire only to have antenna systems placed under regulatory conditions comparable to those of broadcasters. With both parties, and the FCC, coming steadily closer to an agreement on basic features of regulation, it is quite possible that legislation to place all CATV systems under FCC jurisdiction will be presented to Congress some time in 1965.

Assuming that CATV is placed under reasonably effective overall regulation within the near future—and current indications point to such a development—future growth in this field probably can be expected to come in a relatively orderly fashion. If so, it would seem that its effect upon commerical TV as a whole would be natural; any losses suffered by stations in markets invaded by CATV would be more or less offset by gains made by stations whose programs are picked up by CATV. To the extent that antenna systems tend to most adversely affect small local stations, the group broadcasters covered in this study, most of whose stations are located in the larger markets, appear to have little reason to be concerned about CATV as a potential competition.

There has been considerable support for the view that CATV might eventually become the nucleus of a wired pay TV system. This is apparently logical thinking, since a wired pay system,

such as the STV operation on the West Coast, is very similar to a CATV system in physical characteristics. As a practical matter, however, an antenna system cannot be connected to a pay TV system overnight. A recent survey by *Broadcasting,* a trade publication, indicated that it might [2621] cost 50–150% of original investments in a CATV system to transform it into a pay TV system. Futhermore, as we have noted, there are some 1,400 separate antenna systems, each with only about 1,200 subscribers on the average, and with a diversified ownership. Since even the largest CATV system now has less than 20,000 subscribers, no single system is likely to constitute any more than a very small nucleus of a large-scale pay TV operation. For these and other reasons, there seems to be some gap between the theory and the reality on this subject. Since the pay TV picture is itself rather nebulous, it appears rather premature to give any concrete weight to this aspect of CATV.

Amortization of Intangible Assets

As discussed in our memo issued last March, the U.S. Tax Court in Washington, ruled, in a case brought to the court by Corinthian Broadcasting, that the portion of the price of a broadcasting station applicable to the network affiliation is amortizable for tax purposes. More specifically, the Court found that network contracts are not goodwill, that the validity of amortizing contracts has been established satisfactorily by Corinthian, and that a straight-line amortization over a 20-year period seems proper. The Internal Revenue Service has filed notice of appeal in the U.S. Circuit Court of Appeals in Chicago, and there is no way of knowing the final outcome of the case at this point. If the Tax Court decision holds, most group broadcasters are likely to take advantage of it, thereby providing them with (in some cases substantial) additional cash flow.

In our previous discussions, we made very rough estimates of potential annual write-offs available to the group broadcasters, based upon the amount of intangible assets on their books. Actually, this procedure is not a very satisfactory one, since the proportion of intangibles applicable to affiliation contracts varies widely from company to company. For instance, Storer has $22.0 million in intangibles on its books, but practically none of this amount is expected to become available for

amortization under the Corinthian case ruling. We present below our latest estimates of the probable amount of annual amortization available to each of the groups, assuming a 20-year straight-line write-off. It is to be noted that the companies themselves have not yet determined exactly the proportion of total intangibles applicable to network contracts in most cases, and that some companies apparently will attempt to use a shorter amortization period.

Capital Cities	$500,000, or 18¢ a share after taxes
Cox (including Pittsburgh TV)	$400,000, or 8¢ a share
Metromedia	$100,000, or 5¢ a share
Scripps-Howard	$20,000, or less than 1¢ a share
Storer	Nil
Taft	$400,000, or 12¢ a share
Wometco	$50,000, or 1¢ a share

[2622] Our earnings estimates for 1965 do not reflect possible amortization of network affiliation contracts; the estimates would have to be adjusted accordingly if the companies decide to start contract amortization next year. As a practical matter, the potential adjustments are so small relative to projected earnings to be of little significance except for Capital Cities, Cox (assuming FCC approval of the Pittsburgh TV acquisition) and Taft. It is to be noted that Capital Cities is considering amortization of contracts only for tax purposes and not for books; others apparently plan to reflect amortization in both respects. It is also to be remembered that the primary objective of such amortization is the tax saving it provides; the additional cash flow would be of particular benefit to those groups which are making relatively the fullest use of their available financial resources—especially Capital Cities and Taft.

Broadcast Revenues

In our November 1963 study, we stated that FCC's broadcast revenue figures are arrived at by deducting advertising agency commissions but not spot representative commissions. Our estimated revenue breakdowns of individual companies were therefore placed on this basis. However, we find that the FFC's figures actually involve deductions of both types of com-

missions. In this report, we are therefore presenting revenue breakdown estimates on the basis of net after all commissions.

As indicated in our original report, the broadcasters treat the commissions in various ways in their financial reports. Scripps-Howard and Taft deduct agency and representative commissions; Capital Cities, Cox and Metromedia deduct just agency commissions; and Storer and Wometco report gross revenues before deduction of either. It is to be noted also that some group broadcasters—Metromedia and Storer among those covered here—have their own spot sales representative organizations; in such cases, representative commissions are intra-company payments. Knowing the exact basis is important when comparing profit margins of different operations, since revenues of a given station could differ by 15% or more depending upon the treatment of commissions.

[2623] *Capital Cities Broadcasting Company*

Price (10/5/64)	34 (ASE).
1964 price range	37–20.
Current dividend rate	Nil.
Yield	Nil.
1964 estimated earnings per share	$2.10.
1965 projected earnings per share	$2.60.
P/E Ratio (1964 Estimate)	16.1X.
1964 Estimated cash flow per share	$3.15.

Capitalization (September 1964)

Long-term Debt	$32,000,000
Common Stock ($1.00 par value)	1,355,000 shares*

*In addition, approximately 115,000 shares are reserved, 75,000 for issue at $20 per share upon exercise of warrants expiring October 1, 1972, and about 40,000 for stock options.

Following the acquisition of WJR radio in Detroit and WSAZ radio and TV in Huntington-Charleston. West Virginia, from the Goodwill Stations, Inc., Capital Cities now operates five VHF stations and six radio stations. The company also operates a UHF station as a satellite to its Albany VHF. In addition, the company owns a 40% interest in New York Subways Advertising Co.

[Dollars in millions]

	Estimated 1964				
	Net (a) Revenues	Pre-tax Income	Pre-tax Margin (percent)	Purch. Date	Approx. Price
Television	$14.5	$4.7	33		
WKBW Buffalo (VHF)	4.6	1.7	37	5/61	(c) $12.5
WPRO Providence (VHF)	4.1	1.2	29	4/59	(e) 5.5
WTEN Albany (VHF & UHF)	2.5	0.7	28	1957	(f)
WTVD Durham (VHF)	2.4	0.7	29	10/57	(g) 1.7
WSAZ Huntington (VHF) (b)	0.9	0.4	44	9/64	(h) 12.0
Radio	5.0	1.0	20		
WPAT Paterson (AM-FM)	2.0	0.4	20	10/61	5.5
WKBW Buffalo (AM)	1.2	0.25	20	5/61	(c) 1.5
WPRO Providence (AM-FM)	0.8	0.2	25	4/59	(e) 1.0
WROW Albany (AM)	0.6	0.06	10	1947	N.A.
WJR Detroit (AM-FM) (b)	0.3	0.08	25	9/64	(h) 2.0
WSAZ Hungtington (AM) (b)	0.1	0.02	20	9/64	(h) 1.0
Total	19.5	5.7	29		

(a) Adjusted by deducting representative commissions.
(b) Included from September 10.
(c) Total price of $14.0 million for TV and radio; breakdown is estimated.
(e) Total price of $6.5 million for TV and radio; breakdown is estimated.
(f) Constructed.
(g) Cost basis of stock acquired; issued 481,444 shares.
(h) Total price of approximately $15 million for Huntington TV-radio and Detroit radio; breakdown is estimated.

[2624] *Capital Cities Broadcasting Company*

Market	Market ranking	Channel	Network affiliation	Commercial stations
VHF TV (5)	(1)			
WPRO, Providence, R.I.	11	12	CBS	3
WKBW, Buffalo, N.Y.	[2] 22	7	ABC	3
WTEN, Albany-Schenectady-Troy	39	10	CBS	3
WSAZ, Charleston-Huntington, W. Va.	44	3	NBC	3
WTVD, Raleigh-Durham, N.C.	53	11	CBS(NBC)	2
UHF TV (1): WCDC, Adams, Mass., satellite to WTEN.		19	CBS	1
AM Radio (6)				
FM Radio (3)				

[1] American Research Bureau net weekly circulation.
[2] Would be higher if Canadian audience is included.

The company reported an increase in revenues of approximately 10% for the first half; net income for the period showed a 44% gain. The extent of revenues gain will be greater in the second half because of the inclusion of the newly acquired stations from September 10. We estimate full-year revenues of $20 million or more, vs. $17.0 million reported for 1963. Net income also will benefit from the acquisitions; we look for a figure of perhaps $2.85 million for the year, vs. $2.01 million of 1963. Based upon the shares expected to be outstanding at the end of the year, the estimate is equivalent to about $2.10 per share; the company earned $1.58 per average share last year. The Goodwill property acquisition was financed entirely through debt, with no common stock dilution involved. The inclusion of the acquired properties for the full year, plus normal growth factors, should result in another significant profit improvement in 1965. We tentatively project per share earnings of around $2.60.

The company's long-term debt is rather heavy, and debt service requirements over the next several years will be demanding. Thus, repayment will be at the rate of $4 million plus 75% of cash flow in excess of $4 million each year. However, the company is not expected to encounter any problems in meeting the schedule; we estimate cash flow in 1965 at around $5½ million. On the other hand, there may be little or no cash dividends for several more years.

Year ended December 31	Net revs. (millions)[1]	Profit margin (percent)[2]	Depre. and amort. (millions)	Net income	Per share: Earn.	Per share: Div.	Price range	Mean price: P/E (X)	Mean price: Yield (Percent)
1963	$17.0	38.9	$1.2	$2.0	$1.58	Nil	$25–$17	13.2	Nil
1962	15.7	38.2	1.3	1.6	1.33	Nil	21–10	11.8	Nil
1961	10.5	34.9	0.8	1.1	0.93	Nil	24–10	18.3	Nil
1960	7.5	36.2	0.7	0.8	0.70	Nil	12–8	14.1	Nil
1959	5.4	24.9	0.6	0.4	0.33	Nil	10–7	25.4	Nil
1958	2.6	24.1	0.2	0.3	0.27	Nil	9–5	21.8	Nil

[1] Before deduction of representative commissions.

[2] Operating income, before depreciation, as percent of net revenues.

[2625] *Cox Broadcasting Corporation*

Price (10/5/64) (NYSE)	25
1964 Price Range	30–16
Current Dividend Rate	$0. 40
Yield (percent)	1. 6
1964 Est. Earnings Per Share	$1. 25
1965 Proj. Earnings Per Share	$1. 60
P/E Ratio (1964 Estimate)	20. 0
1964 Est. Cash Flow Per Share	$1. 65

Capitalization (June 30, 1964)

Long-term Debt		$16, 700, 000
Common Stock ($1.00 par value)	shares	2, 650, 000*

* In addition, 100,000 shares are reserved for issue under the stock option plan. Approximately 2 million of the outstanding shares are closely held.

This company, which became publicly owned just last April, operates four VHF TV stations and four AM–FM radio stations. The company recently submitted to the FCC a proposal to acquire WIIC (TV) in Pittsburgh for a gross price of $20½ million. The company also owns several CATV systems in Pennsylvania, Washington and Oregon, with total subscribers of close to 30,000. During 1963, television stations accounted for about 75% of pro forma revenues, radio stations for about 20% and CATV systems for some 5%. As the following table shows, we estimate that the four TV stations make rather equal contributions to the company's profits. WIIC, when and if acquired, will become the company's largest single property; we estimate the station's pre-tax profits this year at a little less than $2½ million.

[Dollar amounts in millions]

	Estimated 1964			Purch. Date	Approximate Price
	Net[1] Revenues	Pre-tax Income	Pre-tax Margin (percent)		
Television	$14.5	$5.0	35		
KTVU San Francisco (VHF)	4.7	1.4	30	Nov. 1963	$12.4
WSB Atlanta (VHF)	3.5	1.3	37	1948	(2)
WSOC Charlotte (VHF)	3.2	1.2	38	May 1959	[3] 6.0
WHIL Dayton (VHF)	3.1	1.1	36	1949	(2)
Radio	4.0	0.5	13		
WSB Atlanta (AM-FM)	1.5	0.3	20	1939	(2)
WHIO Dayton (AM-FM)	0.9	0.1	11	1934	(4)
WIOD Miami (AM-FM)	0.8	0.05	7	Jan. 1963	0.5
WSOC Charlotte (AM-FM)	0.8	0.05	7	Sept. 1960	[3] 0.6
CATV	1.5	0.5	33		
Total	20.0	6.0	30		

[1] Adjusted by deducting representative commissions.
[2] Constructed.
[3] Total price of $6.6 million for TV and radio; breakdown is estimated.
[4] Not available.

[2626] Cox Broadcasting Corporation

	Market	Market Ranking	Channel	Network Affiliation	Commercial Stations
VHF TV (5)		(a)			
KTVU	San Francisco-Oakland	7	2	Ind.	4
WIIC	Pittsburgh, Pa. (b)	9	11	NBC	3
WSB	Atlanta, Ga.	23	2	NBC	3
WHIO	Dayton, Ohio	27	7	CBS(NBC)	2(c)
WSOC	Charlotte, N.C.	29	9	ABC(NBC)	2

UHF TV (0)
AM Radio (4)
FM Radio (4)

(a) American Research Bureau net weekly circulation.
(b) Purchase subject to FCC approval.
(c) Part of market area also served by Cincinnati stations.

The company reported revenues of $10.1 million and net income of $1.48 million, equivalent to 67¢ per share, for the first half. Comparisons with last year are not too meaningful because of the acquisitions made during the past 18 months, including KTVU (TV) and some CATV systems. We estimate revenues of $20.5 million vs. $18.4 million for 1963, and earnings of around $3.0 million or $1.25 per average share ($1.15 per present share) vs. $1.19 in 1963. Last year's figures are pro forma,

including properties purchased during 1963 for the full year. We estimate that WIIC might add some 35¢ per share during the initial year of acquisition (more in following years). A 10% improvement in net income from the present Cox properties to $3.3 million, equivalent to $1.25 per share in terms of the currently outstanding shares, appears to be a reasonable expectation. Assuming the inclusion of WIIC for the full year, we therefore project earnings of around $1.60 per share for next year.

In connection with the proposed WIIC acquisition, the company has arranged to obtain a $29 million 20-year loan from the Prudential Insurance Company of America at 5½%. Since the company has approximately $11 million in cash and marketable securities—with the $9.5 million obtained in the April stock financing nearly intact—only about $12 million of the newly arranged loan will be required for the acquisition. The company plans to use $15 million of the remainder to retire an outstanding 5¼% note held by Prudential and $2 million for other purposes, perhaps in connection with further acquisitions.

Year ended Dec. 31—	Net revs. (millions) [1]	Profit margin (%) [2]	Depre. & Amort. (millions)	Net income (millions)	Per share		Price range	Mean price	
					Earn.	Div.		P/E (X)	Yield (%)
1963 [3]	$18.4	36.5	$1.0	$2.4	$1.19	(4)	(4)	(4)	(4)
1963	14.6	37.3	0.8	2.1	1.04	(4)	(4)	(4)	(4)
1962	12.0	39.7	0.5	1.9	0.97	(4)	(4)	(4)	(4)
1961	10.3	36.5	0.6	1.4	0.71	(4)	(4)	(4)	(4)
1960	9.8	36.2	0.6	1.4	0.68	(4)	(4)	(4)	(4)
1959	8.4	37.9	0.5	1.2	0.60	(4)	(4)	(4)	(4)

[1] Before deduction of representative commissions.
[2] Operating income, before depreciation, as % of net revenues.
[3] Pro forma, including acquisitions made during 1963 for full year.
[4] The company was privately held until April 1964.

[2627] *Metromedia, Inc.*

Price (10/5/64)	37 (NYSE).
1964 Price Range	39–27.
Current Dividend Rate	$0.70.
Yield	1.9%.
1964 Est. Earnings Per Share	$2.50.
1965 Proj. Earnings Per Share	$3.25.
P/E Ratio (1964 Estimate)	15.0X.
1964 Est. Cash Flow Per Share	$6.00.

Capitalization (September 1964)

Long-term Debt	$39,000,000*
$3.12½ Cum. Pfd. ($50 stated value)	30,000 shares**
Common Stock ($1.00 par value)	1,845,000 shares***

Metromedia acquired WCBM (AM–FM) in Baltimore last February, and sold KOVR (TV) just recently. At the present time, the company operates four VHF and two UHF TV stations and six radio stations; it also owns outdoor plants in New York, Chicago and on the West Coast, and has transit advertising franchises in Los Angeles and the Bay Area.

	Estimated 1964				
	Net Revenues (millions of dollars)	Pre-tax Income (millions of dollars)	Pre-tax Margin (percent)	Purch. Date	Approx. Price (millions of dollars)
Television [1]	28.0	4.0	14		
WNEW New York (VHF)	11.0	1.6	15		([2])
KMBC Kansas City (VHF)	3.6	1.3	35	7/61	[3] 7.5
KTTV Los Angeles (VHF)	7.5	.4	5	7/63	10.6
WTTG Washington (VHF)	3.0	.3	10		([2])
KOVR Sacramento (VHF) [4]	1.3	.15	12	2/60	2.9
WTVP Decatur (UHF)	.9	.15	17	11/60	.6
WTVH Peoria (UHF)	.7	.1	14	2/60	.6
Radio [1]	14.0	2.1	15		
WNEW New York (AM-FM)	6.5	1.3	20	1957	7.5
WIP Philadelphia (AM-FM)	2.0	.3	15	2/60	4.5
WCBM Baltimore (AM-FM) [5]	2.0	.2	10	2/64	2.0
KLAC Los Angeles (AM-FM)	1.5	.1	7	7/63	4.5
WHK Cleveland (AM-FM)	1.2	.1	8	1958	.7
KMBC Kansas City (AM)	.8	.1	12	7/61	[3] .9
Outdoor (Foster & Kleiser)	28.0	2.8	10		
Others (inc. Ice Capades)	10.0	.8	8		
Total	80.0	9.7	12		

[1] Adjusted by deducting representative commissions, included in "Others."

[2] Original property.

[3] Total price of $8.4 million for TV and radio; breakdown is estimated.

[4] Sold and included only through Aug. 2.

[5] Included from Feb. 10.

*Includes $10 million of 5% notes convertible into Common at $40 per share through 1968 and at higher prices thereafter, and $4 million of 6% debentures convertible into Common at $16⅔ per share.

**Convertible into Common at the rate of $20 per share to August 31, 1969.

***In addition, approximately 770,000 shares are reserved for conversion of preferred stock and debentures and for exercise of warrants (at $20) and stock options.

Market	Market ranking	Channel	Network affiliation	Commercial stations
VHF TV (4)	(1)	....	....	....
WNEW, New York, N.Y.	1	5	Ind.	6
KTTV, Los Angeles, Calif.	2	11	Ind.	[2] 9
WTTG, Washington, D.C.	10	5	Ind.	[3] 5
KMBC, Kansas City, Mo.	19	9	ABC	3
UHF TV (2):				
WTVP, Springfield-Decatur-Champaign	67	17	ABC	[4] 3
WTVH, Peoria, Ill.	91	19	ABC	3
AM Radio (6)				
FM Radio (5)				

[1] American Research Bureau net weekly circulation.
[2] Includes two UHF stations.
[3] Includes one UHF station.
[4] One is a VHF; the other UHF operates two auxiliary outlets.

For the first 26 weeks of the year, the company reported gross revenues of $44.9 million vs. $28.0 million. In the second half, the extent of year-to-year gain will be somewhat less because of the rising 1963 base due to mid-year acquisitions and because of the recent sale of KOVR. We look for gross revenues for the full year of around $92–93 million, vs. $69.7 million in 1963. Net income for the first 26 weeks was up just 9%, with per share earings amounting to $1.07 vs. $1.03 on somewhat increased shares. The relative absence of earnings growth was due primarily to a sharp rise in depreciation and amortization, resulting from the 1963 acquisitions; cash flow showed a 60% increase. We look for a larger net income gain during the second half, with full-year earnings exceeding $2.50 per share vs. $2.13 in 1963. We tentatively project earnings of around $3.25 per share for 1965; this estimate could prove conservative, if the company succeeds in acquiring a major-market TV station.

The company's long-term debts are substantial, but the repayment schedule appears to be relatively comfortable; debt maturities over the next two years amount to only about $600,000 each year, and the company has the choice of prepaying to ease future requirements. Common shares reserved for conversion and other purposes are substantial, amounting to about 42% of the shares currently outstanding, but increases in outstanding shares are expected to take place gradually over a period of several years.

Year Ended December 31	Net revs. (in millions) [1]	Profit margin (percent) [2]	Depre. & amort. (millions)	Net ncome (in millions)	Per share		Price range	Mean price	
					Earn.	Div.		P/E (X)	Yield (Percent)
1963......	$60.1	21.5	$3.5	$4.0	$2.13	$0.40	$38–$15	12.5	1.5
1962......	44.9	20.2	3.0	2.5	1.40	0.30	17–10	9.8	4.6
1961......	41.1	16.0	2.9	1.2	0.67	Nil	24–14	28.5	Nil
1960......	35.9	18.8	2.4	1.7	1.01	0.15	19–13	16.2	0.9
1959......	13.9	22.5	0.9	1.6	1.00	0.15	19–14	16.4	0.9
1958......	12.1	17.8	1.5	.3	0.20	Nil	14–7	51.2	Nil

[1] Representative commissions are intra-company payments.
[2] Operating income, before depreciation, as % of net revenues.

[2629] *Scripps-Howard Broadcasting Company*

Price (10/5/64)	22 bid (OTC).
1964 Price Range	23–18.
Current Dividend Rate	$1.00.
Yield	4.5%.
1964 Est. Earnings Per Share	$1.25.
1965 Proj. Earnings Per Share	$1.40.
P/E Ratio (1964 Estimate)	17.6X.
1964 Est. Cash Flow Per Share	$1.50.

Capitalization (September 1964)

Long-term Debt	None
Common Stock ($1.00 par value)	2,588,750 shares *

Scripps-Howard operates four VHF TV stations and three radio stations, located in the Midwest and the South. The company's radio revenues have remained relatively static during the past several years and have declined as a share of total revenues to the estimated present level of 7–8%. Radio apparently is also unprofitable as a whole; the television stations are indicated to account for all of the company's profits, with the Cleveland and Cincinnati stations contributing the bulk of the total.

* Approximately 67% owned by E. W. Scripps Company.

[Dollar amounts in millions]

	Estimated 1964				
	Net Revenues	Pre-tax Income	Pre-tax Margin (%)	Purch. Date	Approx. Price
Television	$13.7	$6.8	50		
WEWS Cleveland (VHF)	7.0	3.8	55	1947	(1)
WCPO Cincinnati (VHF)	4.0	2.0	50	1947	(1)
WMCT Memphis (VHF)	2.1	0.9	43	12/61	(2)
WPTV West Palm Beach (VHF)	0.6	0.1	17	12/61	$2.0
Radio	1.1	(0.1)			
WCPO Cincinnati (AM-FM)	0.4	0.0			(3)
WNOX Knoxville (AM)	0.4	0.0			(3)
WMC Memphis (AM-FM)	0.3	(0.1)		12/61	(2)
Total	14.8	6.7	45		

[1] Constructed.
[2] Merger upon issuance of 350,000 shares.
[3] Original property.

[2630] *Scripps-Howard Broadcasting Company*

Market	Market ranking	Channel	Network affiliation	Commercial stations
VHF TV (4)	(1)			
WEWS, Cleveland, Ohio	8	5	ABC	[2] 3
WCPO, Cincinnati, Ohio	15	9	CBS	[2] 3
WMCT, Memphis, Tenn	36	5	NBC	3
WPTV, West Palm Beach, Fla	110	5	NBC	[3] 2
UHF TV (0)				
AM Radio (3)				
FM Radio (2)				

[1] American Research Bureau net weekly circulation.
[2] There is also a UHF in nearby Akron, which is an ABC affiliate.
[3] Part of market area also served by Miami stations.

The company's net revenues during the first six periods (each period composed of four weeks) ended June 13 amounted to $6.85 million vs. $6.71 million for the comparable 1963 periods. Net income for the first six periods was $1.58 million vs. $1.49 million, equivalent to 61¢ per share vs. 58¢. For the full year we look for revenues of somewhat less than $15 million vs. $14.2 million in 1963 and earnings of around $1.25 per share vs. $1.17 last year. Since earnings in 1962 were $1.20 per share, this would mean a more or less static trend for the company's profits over a three-year period, during which most other broadcasters have

experienced excellent growth. The static profit trend has arisen from a practical absence of revenue growth rather than from any narrowing of the profit margins. We tentatively project earnings of around $1.40 per share for 1965, since industry conditions remain favorable and since there appear to be no fundamental reasons for expecting the company's revenues to lag behind the overall industry's.

The company's financial position is very conservative, with no outstanding long-term debt. Thus, there should be no difficulty in financing future acquisitions (including the fifth VHF TV station which the company is permitted to own), when and if opportunities arise, without common stock dilution. The current dividend rate of $1.00 appears safe unless an unexpectedly sharp earnings deterioration develops. On the other hand, it represents a rather high payout ratio, so that no significant increases might take place over the intermediate future.

Year ended December 31	Net revs. (in millions)[1]	Profit margin (percent)[2]	Depre. and amort. (in millions)	Net income (In millions)	Per share		Price range	Mean price	
					Earn.	Div.		P/E (X)	Yield (percent)
1963	$14.2	44.2	$0.5	$3.0	$1.17	$1.00	$22-$18	18.2	4.7
1962	14.1	48.9	.5	3.1	1.20	(3)	(3)	(3)	(3)
1961	12.2	44.4	.4	2.8	1.09	(3)	(3)	(3)	(3)
1960	11.7	49.7	.4	2.7	1.04	(3)	(3)	(3)	(3)
1959	10.2	44.6	.4	2.0	.79	(3)	(3)	(3)	(3)
1958	8.5	44.5	.4	1.4	.54	(3)	(3)	(3)	(3)

[1] Net of agency and representative commissions.
[2] Operating income, before depreciation, as percent of net revenues.
[3] The company was privately held until April 1963.

[2631] *Storer Broadcasting Company*

Price (10/5/64) .... 47 (NYSE)
1964 Price Range 50-38
Current Dividend Range $2.00
Yield 4.2%
1964 Est. Earnings Per Share $3.55
1965 Proj. Earnings Per Share $3.90
P/E Ratio (1964 Estimate) 13.4X
1964 Est. Cash Flow Per Share $4.25

Capitalization (September 1964)

Long-term Debt	$10,600,000
Class B Common Stock	772,000 shares*
Common Stock ($1.00 par value)	1,243,000 shares**
	2,015,000

*Entire issue controlled by the Storer family; convertible into Common share for share, and equal with the latter in all significant aspects except dividends (now $1.00 per share).

**In addition, approximately 80,000 shares are reserved for issue under stock option plans (at $26.72 per share).

Storer operates five VHF TV stations and seven radio stations, primarily located in the Midwest and along the East Coast. Since September 1963, the company has owned an 80% interest in the Southern California Cable Television Corp., which operates CATV systems, with current total subscribers of some 1,800, about 50 miles northwest of Los Angeles.

[Dollar amounts in millions]

	Estimated 1964			Purch. Date	Approx. Price
	Net Revenues	Pre-tax Income	Pre-tax Margin (%)		
Television [1]	$26.0	$12.0	46		
WJBK Detroit (VHF)	8.0	4.0	50	1948	(2)
WJW Cleveland (VHF)	7.9	4.0	51	1954	(3)
WITI Milwaukee (VHF)	3.9	1.4	36	January 1958	$4.3
WAGA Atlanta (VHF)	3.4	1.3	38	1949	(3)
WSPD Toledo (VHF)	2.8	1.3	46	1948	(2)
Radio [1]	10.0	2.0	20		
WHN New York (AM)	3.5	0.7	20	January 1962	11.0
WIBG Philadelphia (AM-FM)	2.0	0.6	30	May 1957	(4)
KGBS Los Angeles (AM)	1.2	0.1	8	June 1959	0.9
WGBS Miami (AM-FM)	1.0	0.2	20	1944	(3)
WJW Cleveland (AM-FM)	1.0	0.2	20	1954	(3)
WJBK Detroit (AM-FM)	0.7	0.1	14	1947	(3)
WSPD Toledo (AM-FM)	0.6	0.1	16	1928	(3)
Others	3.0	0.5	17		
Total	39.0	14.5	37		

[1] Adjusted to exclude agency and representative commissions; latter included in "Others."

[2] Constructed.

[3] Not available.

[4] Bought as part of package with Wilmington TV station (closed in 1958) for $5.6 million and assumption of $1.4 million debt.

Market	Market Ranking	Channel	Network Affiliation	Commercial Stations
VHF TV (5)	[1]			
WJBK Detroit, Mich.	6	2	CBS	[2] 4
WJW Cleveland, Ohio	8	8	CBS	[3] 3
WITI Milwaukee, Wis.	21	6	ABC	[4] 4
WAGA Atlanta, Ga.	23	5	CBS	3
WSPD Toledo, Ohio	33	13	ABC	2
UHF TV (0)				
AM Radio (7)				
FM Radio (5)				

[1] American Research Bureau net weekly circulation.
[2] Includes one Canadian VHF; there is one UHF in nearby Allen Park.
[3] There is also a UHF in nearby Akron.
[4] Includes one UHF station.

Gross revenues for the first half were up nearly 8% over the comparable 1963 period; revenues for the second quarter alone showed a gain of a little over 10%. Net income for the first half was up 12½%; here again, the second quarter increase was greater, mounting to 27½%. There seem to have been no abnormal factors to account for the excellent second quarter, but second-half comparisons probably will more closely approximate those of the entire first half than of the second quarter alone. We estimate full-year revenues of around $43½ million vs. $40.0 million in 1963, and net income of around $7.2 million vs. $6.62 million, representing a 15% increase. Based on the shares now outstanding, the earnings estimate is equivalent to about $3.55 per share; the company in 1963 reported earnings of $3.12 (before a non-recurring loss) on year-end shares. Another 10% improvement to the $3.90 per share level appears to be a reasonable expectation for 1965.

The currently outstanding long-term debt of somewhat over $10 million was incurred in April 1963, in connection with the repurchase by the company of some 440,000 shares of Class B Common from George B. Storer, the chairman of its board. These shares, and an additional 37,000 shares repurchased in

1961, are held as treasury stock; there appear to be no reasons to expect these shares to be re-issued, except perhaps in connection with a future acquisition.

Year Ended Dec. 31—	Gross Revs. (in millions) [1]	Profit Margin (percent) [2]	Depreciation and Amortization (in millions)	Net Income (in millions)	Per Share		Price Range [3]	Mean Price	
					Earn.[3]	Div.[3]		P/E (X)	Yield (percent)
1963	$40.0	37.3	$1.4	$6.3	$3.12	$1.80	$45-$31	12.3	4.7
1962	37.1	36.7	1.5	5.4	2.24	1.80	33-27	13.5	5.9
1961	31.2	36.6	1.6	4.5	1.83	1.80	34-28	16.9	5.8
1960	30.6	38.2	1.6	5.1	2.06	1.80	31-26	13.9	6.3
1959	28.1	39.8	1.6	4.6	1.92	1.80	31-26	14.8	6.3
1958	25.2	28.8	1.5	4.0	1.61	1.80	26-20	14.4	7.8

[1] Before deduction of agency commissions; representative commissions are intra-company payments.

[2] Operating income, before depreciation, as percent of gross revenues.

[3] Dividends and price range are applicable to Common stock, earnings to combined Common and Class B.

[2633] *Taft Broadcasting Company*

Price (Oct. 5, 1964)	38 (NYSE)
1964 Price Range	41–23
Current Dividend Rate	$0.60
Yield	1.6%
1964–65 Est. Earnings Per Share	$2.75
1965–66 Proj. Earnings Per Share	$3.25
P/E Ratio (1964–65 Est. Earnings)	14.0X
1964–65 Est. Cash Flow Per Share	$3.50

Capitalization (September 1964)

Long-term Debt	$33,600,000
Common Stock ($1.00 par value) shares	1,637,000*

*Approximately 53% closely held.

Following the acquisition of WGR radio and TV in Buffalo, WDAF radio and TV in Kansas City, and WNEP TV in Scranton/Wilkes-Barre from Transcontinent Television Corp., Taft now operates five VHF and two UHF TV stations and five radio stations. The company also owns two bowling centers in Cincinnati, which are managed by an independent operator on a contract basis.

[Dollar amounts in millions]

	Estimated 1964 [1]				
	Net Revenues	Pre-tax Income	Pre-tax Margin (percent)	Purch. Date	Approx. Price
Television	$21.1	$8.3	39		
WGR Buffalo (VHF)	4.6	1.7	37	April 1964	[2] $17.0
WKRC Cincinnati (VHF)	4.0	1.4	35	1949	[3]
WBRC Birmingham (VHF)	3.6	2.3	64	1957	[4] 5.5
WDAF Kansas City (VHF)	3.6	1.3	36	April 1964	[2] 12.0
WTVN Columbus (VHF)	3.5	1.3	37	1953	1.5
WNEP Scranton (UHF)	1.2	0.2	17	April 1964	[2] 2.0
WKYT Lexington (UHF)	0.6	0.1	17	1958	0.2
Radio	3.3	0.7	21		
WKRC Cincinnati (AM-FM)	1.0	0.35	35		[5]
WTVN Columbus (AM-FM)	0.6	0.15	25	1954	0.3
WDAF Kansas City (AM-FM)	0.6	0.1	17	April 1964	[2] 0.5
WBRC Birmingham (AM-FM)	0.6	0.1	17	1957	[4] 0.5
WGR Buffalo (AM-FM)	0.5	(0.0)		April 1964	[2] 0.5
Bowling	0.6	0.0		1961-62	2.1
Total	25.0	9.0	36		

[1] Fiscal year ended March 31, 1965.
[2] Total price of $26.9 million in cash plus adjustments and tax liabilities, or approximately $33 million; breakdown is estimated.
[3] Constructed.
[4] Total price of $6.0 million for TV and radio; breakdown is estimated.
[5] Original property.

[2634] *Taft Broadcasting Company*

Market	Market Ranking [1]	Channel	Network Affiliation	Commercial Stations
VHF TV (5):				
WKRC Cincinnati, Ohio	15	12	ABC	3
WDAF Kansas City, Mo	19	4	NBC	3
WGR Buffalo, N.Y.	[2] 22	2	NBC	3
WTVN Columbus, Ohio	31	6	ABC	3
WBRC Birmingham, Ala	35	6	ABC(CBS)	2
UHF TV (2):				
WNEP Scranton/Wilkes-Barre	62	16	ABC	3
WKYT Lexington, Ky	136	27	ABC(CBS)	[3] 2
AM Radio (5).				
FM Radio (5).				

[1] American Research Bureau net weekly circulation.
[2] Would be higher if Canadian audience is included.
[3] Part of market area also served by Louisville stations.

The company reported net revenues of $6.4 million for the first (June) fiscal quarter, just about twice the $3.2 million of the same 1963 period. Most of the gain resulted from the in-

clusion of the former Transcontinent properties acquired as of last April 1. On a pro forma basis, revenues showed an 11% increase. Earnings for the first quarter were reported at 71¢ per share vs. 35¢. We estimate net revenues of around $25 million for the fiscal year ending next March; revenues for the previous year were $12.9 million, exclusive of the acquired properties. Full-year-earnings are likely to amount to $2.75 per share or more, with $3.00 being within reach under favorable conditions. We are inclined to project earnings for the following fiscal year of $3.25–3.50 per share.

Practically all of the currently outstanding long-term debt of some $33.6 million was obtained in connection with the Transcontinent property acquisition. Repayment will be at a minimum rate of $2.2 million annually; this comfortably below estimated net income of $4½ million for this fiscal year. In addition, the company currently has about $8½ million of "excess" funds in governments yielding about 3½%. The large amount is being held primarily for the purpose of meeting Transcontinent's liabilities; if the Corinthian case decision, discussed earlier in the report, is upheld, most of the amount will become unnecessary and can be utilized to prepay debt and/or for additional acquisitions.

Year Ended March 31	Net Revs. (in millions) [1]	Profit Margin (Percent) [2]	Depre. & Amort. (in millions)	Net Income (in millions)	Per Share		Price Range [3]	Mean Price	
					Earn. [3]	Div. [3]		P/E (X)	Yield (Percent)
1964	$12.9	45.8	$0.7	$2.4	$1.49	$0.58	$27–$17	$15.1	2.6
1963	12.5	46.1	0.8	2.3	1.41	0.43	20–12	11.4	2.7
1962	10.9	44.6	0.7	1.9	1.14	0.47	23–11	14.9	2.7
1961	11.1	40.5	0.8	1.6	0.97	0.36	14–10	12.3	3.0
1960	10.4	40.7	0.5	1.6	0.97	0.29	13–11	12.2	2.5
1959	9.0	38.7	0.8	1.1	0.68	0.40	....	....	....

[1] Net of agency and representative commissions.
[2] Operating income, before depreciation, as % of net revenues.
[3] Adjusted for stock dividends of 2½% annually 1960 to 1964.

[2635] *Wometco Enterprises, Inc.*

Price (10/5/64) .... 32 bid (OTC)
1964 Price Range 35–30
Current Dividend Rate $0.56
Yield 1.8%
1964 Est. Earnings Per Share $1.60
1965 Proj. Earnings Per Share $1.90
P/E Ratio (1964 Estimated) 20.0X
1964 Est. Cash Flow Per Share $2.50

Capitalization (September 1964)

Long-term Debt	$9,632,000
Class B Common Stock	717,000 shares*
Class A Common Stock ($1.00 par value)	1,075,000 shares
	1,792,000 shares

*Closely held by the Wolfson family; convertible into Class A share for share, and equal with the latter in all significant aspects except dividends (now $0.20 per share).

Wometco operates three VHF TV stations and one radio station; it also owns 47½% stock interest in WFGA, a VHF station in Jacksonville, Fla. The company also operates a chain of some 25 theatres, located primarily in the Greater Miami area; substantial concession business is obtained in connection with these theatres and others. The vending division operates vending machines, as well as cafeterias in industrial plants in Florida, Georgia, South Carolina, Nassau and the Canal Zone. The soft drink bottling division has plants in Tennessee, New York (Plattsburg) and Nassau. Wometco also operates the Miami Seaquarium. The vending and bottling activities have been expanded very substantially during the last year or so, primarily through acquisitions, but the Miami TV station is still indicated to be by far the largest single source of profits.

[Dollar amounts in millions]

	Estimated 1964				
	Net [a] Revenues	Pre-tax Income	Pre-tax Margin (Percent)	Purch. Date	Approx. Price
Television	10.5	3.5	33	....	....
WTVJ Miami (VHF)	6.4	2.6	40	1949	([b])
KVOS Bellingham (VHF)	2.7	0.7	26	6/61	3.0
WLOS Asheville (VHF)	1.4	0.2	14	1959	N.A.
Radio	0.1	....	....	....	....
WLOS Asheville (AM)	0.1	....	....	1959	N.A.
Vending & Bottling	12.0	1.2	10	1957–64	....
Theatres & Concessions	4.2	0.6	14	....	....
Seaquarium & Others	1.7	0.2	12	4/60 [c]	....
Total	28.5	5.5	19	....	....

[a] Adjusted to exclude agency and representative commissions.
[b] Constructed.
[c] Seaquarium.

Market	Market ranking	Channel	Network affiliation	Commercial stations
VHF TV (4)	([a])			
WTVJ Miami, Fla.	24	4	CBS	3
WLOS Asheville-Greenville-Spartanburg	48	13	ABC	[e] 4
WFGA Jacksonville, Fla. [b]	79	12	ABC(NBC)	2
KVOS Bellingham, Wash.	[c] 167	12	CBS	[f] 1
UHF TV (0)				
AM Radio (1)				
FM Radio (1)				

[a] American Research Bureau net weekly circulation.
[b] Company now owns 47½% of this station (unconsolidated).
[c] Would be higher if Canadian audience is included.
[e] Includes one UHF; there is also another UHF in market area.
[f] There are 3 Canadian stations in the market area.

For the first 36 weeks of the year ended September 9, the company reported a 44% increase in revenues and a 36.6% gain in net income over the comparable 1963 period. Earnings were $1.16 per share vs. $0.87. Significant portions of the increases resulted from acquisitions, primarily in the vending and bottling areas, but growth from older properties appears to have been also substantial. For the full year (which will cover 53 weeks), we estimate gross revenues in excess of $30 million vs. $22.7 million last year, and a 30% increase in earnings to $1.60 per share or more from $1.25. There are no reasons for expecting a termination of the profit uptrend over the intermediate future; we project earnings of around $1.90 or so for 1965, exclusive of any additional acquisitions. As noted in previous reports, the company eventually will probably acquire a majority ownership in the Jacksonville station and consolidate its operating results; if this takes place early in 1965, the station might add 10¢ per share or more to earnings.

Recent acquisitions have been financed primarily through internal sources and debts, although some of the treasury stock—approximately 200,000 shares at 1963 year-end, mostly acquired by the company at prices substantially lower than the present level—has been also used. Further acquisitions probably will be financed in a similar manner. Long-term debt is at a comfortably low level of less than $10 million only about $1 million of the total will become due during the next two years.

Year ended Dec. 31–	Gross revenues (million) [a]	Profit margin (percent) [b]	Depreciation and amortization (million)	Net income (million)	Per share		Price range [c]	Mean price	
					Earnings	Dividends		P/E (X)	Yield (percent)
1963......	$22.7	24.7	$1.1	$2.2	$1.25	$0.50	$35–$16	20.0	2.0
1962......	18.7	25.6	0.9	1.8	1.06	0.45	18– 10	12.6	3.1
1961......	16.0	22.3	0.8	1.4	0.78	0.41	16– 8	15.0	2.5
1960......	12.7	21.5	0.7	1.0	0.59	0.41	8– 7	12.9	3.4
1959......	10.4	19.7	0.5	0.7	0.61	0.31	7– 6	14.1	4.8
1958......	9.1	18.8	0.5	0.6	0.37	--------	----------	--------	--------

[a] Before deduction of agency and representative commissions.

[b] Operating income, before depreciation, as % of gross revenues.

[c] Adjusted for stock dividend: of 10% and 30% in 1962 and of 20% in 1963; dividends and price range are applicable to Class A stock, earnings to combined Class A and Class B.

[Federal Communications Commission Exhibit No. J–207; presented by Justice Department]

[2846] JANUARY 23, 1964.

Mr. PERRY: Be happy to discuss this further with you at your convenience.

CHRIS J. WITTING.

JANUARY 23, 1964.

[2847] MEMORANDUM RELATING TO BROADCASTING STATION ACQUISITION

If the business criteria for station acquisition is safe and satisfactory return on investment:

Broadcast industry leaders believe all available VHF properties are over priced.

With certain exceptions where improved management could have the typical affect—earnings of stations are today at maximum. Rate structures by and large are pegged at a circulation cost per 1000 homes which in many areas is making other media—billboards, newspapers, radio, etc. a more attractive buy to advertisers.

Former popular network shows on tape and film are available by syndication route to independent stations in increasing quantities. This has relieved stations of the cost of originating shows locally (except for news and possibly a local home economics show) so that station expense is probably at an irreducible minimum.

Accordingly therefore:

Stations will probably have only modest earnings improvement in the foreseeable future—if at all, since the pressures from labor unions and program producers is great for increased rates.

Risk factors on the horizon

The network affiliation a station enjoys is directly related to the station's profit. For example, in a 3 station market—the CBS station earns at least 3 times the profit of the ABC station. This traditional relationship between the stations [2848] in a market may disintegrate in the next year or two as there is evidence the network's posture as an advertising medium may have been seriously hurt by the FCC's decision to void option time as a consideration of network affiliation. As a result networks in the future may simply serve the function of program suppliers.

The buying power of pay TV and theatre TV are beginning to be felt by networks. Major fights are no longer available to Free-TV. If the new wired TV service presently being installed in L/A and San Francisco is successful, other major events will no longer be available to networks. This could seriously effect the earning capacity of TV stations, much as TV effected the earning of radio stations and motion picture houses ten years ago.

VHF stations now dominate TV broadcasting. The number of available channels (12) has given a VHF licensee a relatively unassailable monopoly in the market place particularly since TV sets cannot tune UHF channels. In an effort to make UHF a popular medium—the number of UHF channels available exceeds 70—the FCC has decreed that all new sets sold after April 1964 must have UHF tuners. Since industry sells approximately 6.5 to 7 Million sets per year, the number of households having UHF receivers within 5 to 7 years will be sufficient to attract the formation of new regional networks and advertisers as well, thereby diluting VHF's dominant market position.

In the light of the foregoing, a maximum of 8 to 10 times earnings should be used to price a TV station since this would allow a reasonable degree of risk and safety to the investor.

[2849] *On the other hand:*

If the business criteria included important factors in addition to return on investment, a 15-year payout could conceivably be justified in certain instances.

Examples:

An owner of other communications media such as Newspapers, magazines, radio properties, previously purchased TV properties etc. could afford a higher price since apart from the hedge it would provide against other properties it would lower the unit cost of news or other features presently purchased for the other properties.

A manufacturer and distributor of a product having wide distribution could afford a higher price than the typical investor. Examples, Pepsi Cola and Bulova. Bulova has spent millions each year in the last thirty in buying seconds of time on networks for the right to say and spell its name. If it had purchased the ABC network and the 7 owned and operated stations ABC stations have in the top 7 markets 20 years ago, the money saved would have more than paid for the ABC facility.

Conclusion:

It would seem to me ITT should not pay more than 10 X earnings for any broadcast property at this time.

Kaiser are pursuing a sound but not too dramatic policy. They have applied for UHF channels in the top 7 markets of the U.S.A. and in 7 or 8 years will have an investment worth many dollars. This approach might be worth considering by ITT.

CHRIS J. WITTING.

[Federal Communications Commission Exhibit No. J–208; presented by Justice Department]

[2850] INTERNATIONAL TELEPHONE AND TELEGRAPH CORPORATION, INTERNATIONAL HEADQUARTERS,

May 6, 1964.

To: H. Perry
From: Chris J. Witting
Subject

As you know, we've had several discussions from time to time

as to the wisdom of acquiring TV and broadcasting properties at their present price earnings ratio.

To get an accurate evaluation of the current values of TV and radio properties, and the availability of such properties, I've asked Howard Stark, who is probably the most prominent broker operating in these fields, to meet with me at 11:00 am on May 7 for a general discussion of this business. I've indicated to him in preliminary conversations that properties priced at between eight to ten or twelve times earnings might conceivably be attractive to us.

If it is convenient, I wish you and Mr. Kenmore would sit in on at least this first meeting with Mr. Stark.

Incidentally, I intend to also discuss the general subject of CATV's with him since he has been prominent in arranging for ownership transfers of these, as well.

CC: Mr. H. S. Geneen
R. H. Kenmore

[Federal Communications Commission Exhibit No. J–209; presented by Justice Department]

July 6, 1964.

[2851] H.S.G.
To: Mr. Perry
Re: Mr. Witting

Board Material—Return to Col. Silver by noon, July 7

Summary of U.S. commercial television showing present P/E ratios, probable future growth, our own estimate of effect, of paid TV, our own estimate of effect of increasing use of color, and the general experience as to availability of full cash throw-off. Also, what our own plans are as to what we feel might be accomplished and what P/E ratios might be found. This is a general memo for purposes of discussion at the Board meeting.
H.S.G./gh

[2852] TV Broadcasting Industry

The key to the earnings potential of television broadcasters is a combination of the following factors:

1. An increasing demand for television time by advertisers.
2. A fixed supply of air time and stations.
3. A fixed cost base.

1. Expenditures for advertising on television have continued to increase steadily in recent years, even beyond the period of sharp rise in the 1950's when television was establishing itself as a major new medium. Television revenues increased in each year since 1959 and were up 9% in 1960, 4% in 1961 (a recession year), 13% in 1962, 8% in 1963 and will be up some 9% in 1964. Last year, however, of total advertising expenditures of $13 billion, only some $2 billion, or roughly 16% went to television, which suggests further growth ahead in years to come. Television advertising has been capturing an increasing share of a growing market and various surveys of trends in advertising, as well as advertising costs per unit of exposure, suggest that television will increasingly become the most effective single medium and that its costs compare favorably with other media.

2. The FCC freeze on allocating new VHF franchises has assured a virtual monopoly for those television stations now operating. Their latest decision in November of 1963 confirmed earlier decisions that no new VHF licenses are to be granted.

[2853] 3. Stations' operating costs are virtually fixed and new additional revenues from here on out are likely to further enhance their net income picture. That this has been true in recent years is evidenced by the fact that most independents are able to bring 40% of revenues down to pre-tax earnings.

In spite of the economics of the business, its growth past and future, and high rate of profitability most of the leading broadcasting issues are selling between 13x and 16x anticipated 1964 earnings. We believe this to be true because until very recently the only participation for investors in this industry were through two of the three major networks—ABC and CBS. In recent years, however, an increasing number of the independent groups have offered stock to the public, and as a greater understanding of the economics of the business becomes known we would not expect these P/E's to remain at their current levels.

Three questions frequently raised in connection with the outlook for commercial television as it exists today are the effects of UHF, Pay TV and Color.

1. *UHF*—The FCC has over the last 10 years attempted to extend television service through the expansion of channels 14 through 83, known as Ultra High Frequency television (UHF). This effort has so far been unsuccessful and while in 1956 there were 89 UHF stations in operation with revenues of $33 million, in 1962 there were 83 stations with revenues of [2854] $34 million. Only about one half of these stations were able to show a profit and in the aggregate, pre-tax profits for this segment of the industry were only $1 million. While some people expect the All Channel Receivers Bill (which assures that all television sets manufactured after April 1 of this year will be able to receive both VHF and UHF signals) to expand this segment of the industry substantially, it is not thought that this will have a dramatic effect over the foreseeable future on VHF stations profitability. The major drawbacks of UHF have not been solved, the major one being that UHF signals can be adequately received only 60% as far as VHF. With its weaker signal UHF cannot deliver as many television homes and, therefore, cannot command the same rate structure as VHF stations. Despite this, because higher power is needed to transmit the signal, the UHF station has higher operation costs, while their costs of programming and sales are essentially the same as those of VHF stations. It will take some 10 to 15 years to convert set ownership to all channel receivers, but the ability to receive signals will not by itself generate audiences. Audiences are attracted through programming and the economics discussed above suggest that UHF stations will not be in a good position to compete for programming against their VHF competitors who are operating in a lush economic climate. Where UHF may make its major impact is in smaller markets not now adequately serviced with major VHF outlets.

2. *Pay TV*—The problems facing pay television are somewhat akin to those of UHF in the sense that they, even to a greater extent, will have to [2855] be able to pay for superior programming to attract audiences and have to date not evidenced the ability to attract sufficient financial support to com-

pete successfully in this area. To pay for such programming, and the capital investment necessary to establish a system, pay TV will have to appeal to the same mass audiences as free TV, yet most experiments to date have of necessity been regional and concentrated on special interest audiences for their support. Furthermore, there is considerable political opposition to pay TV, both local and national and any attempt which could narrow audience potential by charging fees for television programs is likely to be actively contested by Washington. Even if Pay TV does find a way out of its seeming dilemma and survives as an economic factor, it cannot be considered as a current threat to the economic well-being of free TV. If it is assumed that over the next five years as much as 10% of a larger viewing audience might be diverted from the prime time programming of the networks, higher rates charged for color programs by that time may offset fully any loss of revenues from this source. Alternatively, spread over a longer period of time, the inroads of Pay TV may have a cumulative impact equal to one year's earnings growth for the rest of the industry.

Essentially, the continuing prosperity of free VHF and passage of time are working against alternative distribution for TV, as the financial strength of the VHF broadcasters continues to grow and attract [2856] programming and audiences.

3. *Color TV*—At the present time advertisers are not paying premium prices for color programming to reach the roughly 5% of television homes that can now receive color transmissions. At the start of the current season NBC (RCA) had 59% of its regular prime time scheduled in color while ABC had 13% and CBS had no regular color programming. The current growth in sales of color sets might lead to an increased saturation to some 10% by the end of next year and in 5 years might be as high as 25%. While the networks will absorb the extra cost of color programming until advertisers are willing to pay the higher rates, virtually all independents have the necessary equipment to transmit color. Therefore, at such a time as rates on color programs can be adjusted to the higher costs borne by the networks, these higher rates will benefit the independent affiliated stations at no extra operating expense to them.

The high quality of television broadcast earnings would make such properties extremely attractive to ITT. Revenues of such properties have shown consistent non-cyclical growth characteristics which are expected to continue at a rate of approximately 10% a year for the foreseeable future. Furthermore, television broadcast operations are essentially a cash business as no additional investment in plant is required to support further growth. As a result, all of the cash generated from such an operation would be available for other areas of System development. In addition, figuring on a 10% annual [2857] rate of growth in earnings presently paid P/E ratios will decline rapidly, or at better than 1x earnings per year—i.e. 15x in one year to 13.6x; 20x in one year to 18.2x.

A number of the larger independent groups are now selling between 13x to 15x current earnings and it is recommended that their potential availability for acquisition at a reasonable premium be ascertained to determine if ITT's entry into this highly desirable segment of the communications field might be accomplished on a favorable basis.

[Federal Communications Commission Exhibit No. J-211; presented by Justice Department]

[2862] INTERNATIONAL TELEPHONE AND TELEGRAPH CORPORATION,
INTERNATIONAL HEADQUARTERS,
August 18, 1964.

To: Mr. Hart Perry
From: Robert Kenmore
Subject: Balance Sheet of Effect of Broadcasting Acquisition

You raised two separate questions—the effect on capital surplus and the effect on borrowing power. In both cases initial conclusion is that there might definitely be an unfavorable effect on the ITT balance sheet if broadcasting is not excluded from the indenture.

1. Capital Surplus

In our usual procedure of issuing stock for assets, a charge is made to capital surplus where the stated value of common

stock and the par value of preferred stock issued exceeds the book value of assets acquired.

Since the stated value of our common stock is $10 per share, you will obviously have fewer goodwill problem if you use primarily common stock in an acquisition. If, for instance, you acquire a company on a share-for-share basis, which had a market value of $55 and a book value of $10, you would have to make no charge against capital surplus.

If on the other hand you used preferred stock valued at $110 on a 1-for-2 basis, you would issue half a share of preferred which would go on the books at $50 instead of $10, and you would have to make a $40 charge to capital surplus.

2. Borrowing Power

Since the borrowing power calculation is based on net tangible assets (subtracting intangible assets from book value), broadcasting properties present the problem that their balance sheet is heavily weighted with intangible assets. As a result, if ITT were to acquire the assets of Corinthian directly for stock (instead of through the method that has been discussed to date of a separate subsidiary), this acquisition would reduce ITT's borrowing power by about $18 million. The acquisition of Capital Cities would reduce borrowing power by $23 million and of Storer by $13 million.

The Corinthian figure is something of an estimate inasmuch as we don't have a published balance sheet, but in the case of Storer and Capital Cities (which would be the most likely companies we might look at beyond Corinthian) about 50% of each company's assets are represented by intangibles.

[Federal Communications Commission Exhibit No. J–219; presented by Justice Department]

[2908] MEMO FOR FILE

NETWORK TELEVISION

1) Network profitability is based on 3 major factors which are,

(a) Price equation. By this we refer to the competitive discount structure and the networks ability to recover program

costs. Obviously, price equation is based on supply-demand factors and at this juncture our opinion is that networks will have more ability to recover program costs and to reduce competitive discounts between now and 1970.

(b) Demand factors. Television appears to be an underpriced media, and demand factors should continue to grow as the effectiveness of TV advertising is demonstrated through continued motivational research. In addition, the last 5 years has been a period during which 3 networks were competing in a 2–2½ network demand market. Now it seems that advertising demand is catching up with available fixed supply (i.e. a fixed amount of advertising time available by 3 networks, which supply will not change). In fact, with new product proliferation and because many manufacturers are relating product introduction to TV markets rather than geographical boundaries, it is suggested that by 1970 the 3 networks will be operating in a demand market of approximately 3–3½ networks.

(c) Audience factor. Historically, 60% of TV homes have viewed programs during prime time, and the total audience factor has improved due to an increase in TV home saturation. However, now that saturation is virtually at maximum, audiences will increase only from an increase in family [2909] formations and from an increase in sets in use during prime time. Recently, Nielsen has indicated that perhaps the 60% audience factor has edged up to 65%. In addition, we are now starting to feel the effects of family formation by the first real TV generation. Younger people (under 40) view television 41% more than people over 55. If this trend should continue as these young people mature, then it is conceivable that sets in use could go up permanently to the 65% level or higher. This would mean an average network program would reach 900,000 more homes during prime time, or an increase of approximately 9%. The effect of such a situation on network time charges seems fairly obvious particularly in light of demand factors mentioned above.

2) Other miscellaneous comments in random order are as follows:

(a) Included in program costs as tabulated by the FCC are AT & T line charges of $36 to $38 million, which have remained static since 1959. This should be listed under technical costs rather than in programming.

(b) Unrecovered program costs include news coverage, so the networks will never break even unless they are able to earn a substantial profit on entertainment program charges. News programming is thought to cost between $25 and $30 million, but that other program costs will be totally offset by program revenue by 1970.

(c) Discounts. Discounts average 35% from card rates for time only, of which 25% is considered normal volume discount and 10% competitive discount. It is this latter 10% which if eliminated could significantly effect network profits as the supply-demand relationship change.

(d) It is estimated that network revenues, a combination of time and program charges, will grow at a 6% annual rate. This would be from both inflationary pressure as well as selling more of available time.

[2910] (e) O & O and Affiliate compensation is based on the card rate for time sales only. Two factors are important in this regard:

(1) It does not seem logical for networks to have to pay stations to carry network programs since the network takes all the program risk. Rather than being increased, we believe this factor might decrease between now and 1970 resulting in substantially greater network profits. Since these payments totaled $200 million in 1963, a 2% or 3% reduction could mean $15 or $16 million in additional network earnings.

(2) Since station compensation is based on card rates, any reduction in competitive discounts plus additional recovery of program costs will accrue entirely to networks.

(f) Our estimate is that the supply factors will be constant for the next 5 to 10 years. A successful UHF network is unlikely because we feel no one will risk $200 million to produce a product (programs) with no assurance of a satisfactory return.

(g) The increased use of color television will offer many new possibilities for advertisers and could conceivably attract industries (autos) which have traditionally spent the bulk of their advertising budget in other media.

(h) We are not too concerned about leverage from improving rates and greater time sales in daytime programming, since this is relatively low cost programming and as such is not an important part of overall totals.

(i) Overall industry profits in broadcasting are probably adequate but networks do not receive their fair share for risk assumed. After all, networks take all the program risks while the stations make most of the money.

[2911] (j) The big plus factor in increasing time rates is the demand-supply relationship. There is not enough business now to fill 3 networks but this is likely to happen by 1970. The past few years have been characterized by the growth of a third network in a 2½ network demand market and this situation will be at least balanced by 1970 and perhaps be reversed by 1975.

(k) Given constant economic conditions in 1970, we figured that network profits could be $120 million at a minimum. This is based on:

1) 4% increase per year in time sales
2) 38% rate of compensation to affiliates
3) A $50 million loss in programming costs
4) Technical depreciation and line charges remaining relatively constant
5) Selling and G & A expense increasing at 6% per year.

(l) Profits substantially above $120 million could be generated if any one of the first 3 factors above is more favorable than predicted. In fact, by increasing growth rate in time sales to 5%, reducing affiliate compensation to 35%, eliminating a 10% competition discount, and reducing program losses to $25 million, network profits could soar to $260 million.

RHK 1-22-65

[Federal Communications Commission Exhibit No. J–222; presented by Justice Department]

[2917] INTERNATIONAL TELEPHONE AND TELEGRAPH CORPORATION, INTERNATIONAL HEADQUARTERS,

February 4, 1965.

To: Mr. Harold S. Geneen
From: Robert H. Kenmore
Subject: Broadcasting

Attached is some background information on the leading TV broadcasting independent groups, in the event that the AB–P discussions stall.

Storer and Taft appear to be the most interesting since each of them already has 5 VHF stations in the top 50 markets, yet each seems to have some leverage potential since their stations are currently not #1 in the market and with the exception of Storer's property in Cleveland (where the #1 station is the NBC O&O) they are not fighting the major network stations for the #1 position.

[2918]

Comparative financial data—leading group broadcasters, estimated 1964 results

	Estimated broadcast revenues (millions)	Net income (millions)	Cash flow (millions)	Market value of equity (millions)	Long term debt (millions)	Price/1964 earnings	Price/1964 cash flow
Public Companies:*							
Storer	$39	$7.2 (19%)	$8.6 (22%)	$96.7	$10.6	13.5x	11.2x
Taft	25	4.8 (19%)	6.0 (24%)	72.0	33.6	15.0x	12.0x
Capital Cities	20	2.8 (14%)	4.3 (22%)	46.0	22.0	16.2x	10.7x
Cox	20	3.3 (17%)	4.4 (22%)	68.9	16.7	20.8x	15.7x
Scripps-Howard	15	3.2 (21%)	3.9 (26%)	54.4	None	17.0x	13.9x
Private, Diversified and Subsidiary Companies:*							
Westinghouse	60	13.0 (22%)	NA	NA	NA	NA	NA
Metromedia	**80	4.6 (6%)	11.0 (12%)	73.8	39.0	16.0x	6.7x
RKO General	35	7.0 (12%)	NA	NA	NA	NA	NA
Triangle	24	NA	NA	NA	NA	NA	NA
Tribune Company	19	NA	NA	NA	NA	NA	NA
Time-Life	19	1.7 (9%)	NA	NA	NA	NA	NA
Crosley	18	NA	NA	NA	NA	NA	NA
Hearst Corp.	18	NA	NA	NA	NA	NA	NA
Corinthian	15	3.4 (23%)	3.8 (25%)	NA	NA	NA	NA
Newhouse	15	NA	NA	NA	NA	NA	NA
Cowles	11	NA	NA	NA	NA	NA	NA

*Excluding network owned and operated stations.

**Only $42 million and $3.1 million respectively of revenues and net income attributable to broadcasting.

[2919] *Selected group broadcasters—Market location and ranking*

City	Affiliated network	National rank of market	Stations in market	Station share of market (percent)	Station position in market
Storer:					
Detroit	CBS	6	4	28	2
Cleveland	CBS	8	3	34	2
Milwaukee	ABC	21	4	31	3
Atlanta	CBS	23	3	41	1
Toledo	ABC	33	2	37	2
Taft:					
Cincinnati	ABC	15	3	32	2
Kansas City	NBC	19	3	31	3
Buffalo	NBC	22	3	31	2
Columbus	ABC	31	3	33	2
Birmingham	ABC/CBS	35	2	47	2
Scranton (UHF)	ABC	62	3	32	2
Lexington (UHF)	ABC/CBS	136	2	42	2
Capital Cities:					
Providence	CBS	11	3	38	1
Buffalo	ABC	22	3	29	3
Albany	CBS	39	3	38	1
Huntington (WVA)	NBC	44	3	41	1
Raleigh-Durham	CBS/NBC	53	2	55	1
Cox:					
San Francisco-Oakland	IND	7	4	14	4
Pittsburgh	NBC	9	3	22	3
Atlanta	NBC	23	3	41	1
Dayton	CBS/NBC	27	2	36	2
Charlotte, N.C.	ABC/NBC	29	2	48	2
Scripps-Howard:					
Cleveland	ABC	8	3	31	3
Cincinnati	CBS	15	3	30	3
Memphis	NBC	36	3	27	3
West Palm Beach	NBC	110	4	32	1
[2920]					
Westinghouse:					
Boston	NBC	5	3	35	1
San Francisco	CBS	7	4	33	1
Philadelphia	NBC	8	3	36	1
Pittsburgh	CBS	9	3	42	1
Baltimore	ABC	17	3	29	2
Metromedia:					
New York	IND	1	6	14	4
Los Angeles	IND	2	9	8	4
Washington, D.C.	IND	10	5	19	4
Kansas City	ABC	19	3	32	2
Springfield, Ill. (UHF)	ABC	67	3	20	3
Peoria, Ill. (UHF)	ABC	91	3	35	1
RKO General:					
New York	IND	1	6	6	6
Los Angeles	IND	2	9	9	7
Boston	ABC	5	3	28	3
Memphis	ABC	36	3	30	2
Windsor, Ont. (Detroit)	CBC	6	4	15	4

Selected group broadcasters—Market location and ranking—Continued

City	Affiliated network	National rank of market	Stations in market	Station share of market (percent)	Station position in market
Triangle:					
Philadelphia	ABC	4	3	28	3
New Haven	ABC	18	5	[1] 22 [2] 26	2
Lebanon-Harrisburg, Pa. (UHF)	CBS	29	4	....	....
Altoona-Johnstown, Pa.	ABC/CBS	27	3	43	2
Fresno, Cal. (UHF)	CBS	89	4	....	....
Tribune Company (Chicago Tribune):					
New York [3]	IND	1	6	10	5
Chicago	IND	3	4	21	3
Duluth	CBS/ABC	103	2	58	1
[2921]					
Time-Life:					
Indianapolis	NBC	19	4	31	2
Grand Rapids, Mich.	NBC	30	3	37	2
Denver	CBS	47	4	35	1
San Diego	NBC	52	4	34	2
Crosley:					
Cincinnati	NBC	16	3	33	3
Indianapolis	ABC	19	4	24	3
Dayton	ABC/NBC	25	2	46	2
Columbus	NBC	34	3	31	3
Hearst Corp.					
Baltimore	NBC	11	3	27	3
Milwaukee	CBS	20	4	34	1
Corinthin:					
Indianapolis	CBS	18	4	36	1
Houston	CBS	26	3	36	1
Sacramento	CBS	37	3	30	3
Tulsa	CBS	56	3	45	1
Fort Wayne (UHF)	CBS	98	3	41	1
Newhouse:					
St. Louis (23%)	ABC	12	4	24	3
Harrisburg, Pa. (UHF)	ABC	29	4	....	....
Portland, Ore. (50%)	CBS	31	4	34	1
Syracuse	ABC/NBC	38	3	41	1
Birmingham	CBS/NBC	41	2	47	2
Cowles:					
Minneapolis (47%)	CBS	15	4	34	1
Memphis	CBS	33	3	45	1
Wichita, Kan. (80%)	CBS	51	3	29	3
Des Moines	CBS	70	3	33	2

[1] Hartford.
[2] New Haven.
[3] Interlocking ownership with "New York Daily News."

[Federal Communications Commission Exhibit No. J-226; presented by Justice Department]

[2981] INTERNATIONAL TELEPHONE AND TELEGRAPH CORPORATION, INTERNATIONAL HEADQUARTERS,
September 21, 1965.

To: Messrs. H. S. Geneen/H. Perry
From: Robert H. Kenmore
Subject: CBS

The following up-dates my memo of March 1, 1965 as to a possible mix of common and preferred to match the CBS dividend, and also to avoid dilution of ITT net worth.

The basic assumptions are:

ITT Market Price	$56
CBS Market Price	$41
CBS Common Shares	19.9 million
Total Value of Equity	$816 million
CBS Net Worth	$233 million

A new issue of preferred is suggested, which would have the following characteristics:

Coupon	$3.00
Conversion	Into 1 share of ITT Common
Value	$75.00 (i.e. 4% yield, 33% above conversion parity)
Redemption Price	$80.00
Liquidation Value	$25.00
Stated Value	$5.00

Comments

Many of the features of this preferred are similar in principle to our previous issues. A probable 33% premium above conversion parity is only slightly higher than an average initial premium of 27% for convertible preferred used in all acquisitions from General Controls to date. The $3.00 coupon provides the same 4% yield as the preferred we have been using, but a share-for-share conversion offers considerably more flexibility than a fixed conversion price which necessitates new series as the price of the common changes. The new issue should have a longer useful life in subsequent acquisitions.

[2982] A redemption price of $80 is similar to the redemption price of a 4–5% premium over par which we have set on our previous series of convertible preferred. (This redemption price scales down in small annual increments after the first call date.)

The value in liquidation of $25 per share may be the hardest feature to sell, but is, I think, justified. The basic premise is that the only reason for this preferred issue is to match the CBS dividend; in an all-common stock deal the CBS stockholder would have ended up with a book value for his stock of $23.68. He is, therefore, certainly no worse off by getting a preferential call on $25 of assets by accepting this preferred.

A stated value of $5.00 serves to protect capital surplus and the combined companies' common stockholder equity.

Effect

Based on all of the above assumptions, 4,351,000 shares of new preferred would be issued with a value of $326 million or 40% of total acquisition price. In addition, 8.7 million shares of common with a value of $490 million would also be required, for a total price of $816 million.

Earnings per share on the ITT common shares issued would be $3.97 in 1965 and $3.64 on the total common outstanding after the merger, for a positive earnings effect of 14¢ over the $3.50 estimated for ITT alone.

Based on our previous memos of projected earnings for CBS in 1970, in that year earnings on the ITT stock issued would be $8.64 (vs. $5.90 for ITT) and a combined earnings figure of $6.74 for a positive earnings effect of 84¢.

The effect on common stockholders equity per share would be a decline for the ITT stockholder from $29.30 to $27.73 and an increase for the CBS common stockholder from $11.71 to $27.73.

[Federal Communications Commission Exhibit No. J–227; presented by Justice Department]

[2983] COMPARATIVE FINANCIAL RESULTS, LEADING GROUP BROADCASTERS

ESTIMATED 1965 RESULTS

	Broadcasting Operations Only					Total Company		
	Broadcast Revenues (millions)	Net Income (millions)	Percent Revenues	Cash Flow (millions)	Percent Revenues	Market Value Equity (thousands)	Price/Est. 1965 Earnings	Price/Est. 1965 Cash Flow
Metromedia ($41.50)	$54	$5.0	9.3	$7.0	13.0	$86,610	14x	8x
Storer ($81.00)	47	7.7	16.4	9.2	19.6	165,159	21x	18x
Capital Cities ($61.25)	29	4.3	14.8	5.6	19.3	83,178	19x	15x
Taft ($32.75)	28	6.4	22.9	7.5	26.8	109,614	17x	15x
Cox ($33.00)	28	4.8	17.1	5.8	20.7	87,516	18x	14x
Scripps-Howard ($31.25)	18	4.5	25.0	5.0	27.8	80,897	18x	16x
Average	--------	--------	17.6	--------	21.2	--------	18x	14x

[2984] *Selected group broadcasters—Market location and ranking*

City	Affiliated network	National rank of market	Stations in market	Station share of market (percent)	Station position in market
Metromedia:					
New York	IND	1	6	14	4
Los Angeles	IND	2	9	8	4
Washington, D.C.	IND	10	5	19	4
Kansas City	ABC	19	3	32	2
Springfield, Ill. (UHF)—Has been sold subject to FCC approval.	ABC	----------	----------	----------	----------
San Francisco (UHF)—Option to purchase subject to FCC approval.	--------------	----------	----------	----------	----------
Storer:					
Detroit	CBS	6	4	28	2
Cleveland	CBS	8	3	34	2
Milwaukee	ABC	21	4	31	3
Atlanta	CBS	23	3	41	1
Toledo	ABC	33	2	37	2
Capital Cities:					
Providence	CBS	11	3	38	1
Buffalo	ABC	22	3	29	3
Albany	CBS	39	3	38	1
Huntington (W. Va.)	NBC	44	3	41	1
Raleigh-Durham	CBS/NBC	53	2	55	1

Selected group broadcasters—Market location and ranking—Continued

City	Affiliated network	National rank of market	Stations in market	Station share of market (percent)	Station position in market
Taft:					
Cincinnati	ABC	15	3	32	2
Kansas City	NBC	19	3	31	3
Buffalo	NBC	22	3	31	2
Columbus	ABC	31	3	33	2
Birmingham	ABC/CBS	35	2	47	2
Scranton (UHF)	ABC	62	3	32	2
Lexington (UHF)	ABC/CBS	136	2	42	2
Cox:					
San Francisco-Oakland	IND	7	4	14	4
Pittsburgh	NBC	9	3	22	3
Atlanta	NBC	23	3	41	1
Dayton	CBS/NBC	27	2	36	2
Charlotte, N.C.	ABC/NBC	29	2	48	2
Scripps-Howard:					
Cleveland	ABC	8	3	31	3
Cincinnati	CBS	15	3	30	3
Memphis	NBC	36	3	27	3
West Palm Beach	NBC	110	4	32	1

[Federal Communications Commission Exhibit No. J–231; presented by Justice Department]

[3022] *Draft of Memo to ABC Management* 12/3/65

I am sending you herewith a number of documents about ITT which may be of interest to members of your Board. Please feel free to use any that you find appropriate. Aside from your annual and interim report, I have also taken the liberty of enclosing two recent brokerage reports written about our company by leading Wall Street firms. The Kuhn, Loeb report will probably be of greatest interest to you since they have been investment bankers for the company for the last — years. This firm probably knows ITT better than anyone else, while yet retaining the objectivity that is implicit in their fiduciary role with the investment public.

It may be helpful if in addition to this published material I make a couple of comments of what we as a management group think about the future outlook for ITT. To put this in perspective, let me first briefly comment upon the past. As you may know, the only industrial company as large as (or larger than) ITT in sales and assets which [3023] has shown a higher rate of

growth in earnings per share during the past 10 years is IBM. Furthermore, during this period the company experienced only one year (1957) of earnings decline.

Needless to say, therefore, our management is primarily dedicated to providing our stockholders with continued growth in earnings per share. Furthermore, we would hope to be able to continue to match the rate of growth achieved in recent years—on the order of 12% to 13% per annum—in spite of the ever increasing base from which this growth must be achieved.

Where then do we expect this growth to come from in the years ahead? To a great extent where it has come from in the past. The single largest segment of our sales and earnings continues to come from our basic historical telecommunications manufacturing and operating activities which are primarily concentrated in the relatively unsaturated markets outside of the U.S. In Western Europe, for instance, where our sales next year [3024] will top the $1 billion mark for the first time, we have a market of 305 million people (versus a U.S. population of about 190 million) and while this European market is primarily concentrated in countries far along the road of economic development and high standards of living, the number of telephones in Western Europe today is still only 13 per 100 population, compared with 43 per 100 in the U.S. Stated another way, for Europe, whose saturation level for telephones now stands where the U.S. was 25 years ago, to catch up to the U.S. level will require an expenditure of some $24 billion in the type of equipment which we supply (i.e. essentially the same product line that Western Electric manufactures for the Bell System in the U.S.).

This kind of non-cyclical built-in demand is one of the key factors in ITT's continuing growth since we are by far the largest supplier of this type of equipment outside the U.S. (with a volume roughly equivalent to that of the next 2 largest factors in the industry combined). Our basic position in these markets and relationships with their governments is also an important [3025] factor in our ability to broaden our production in other areas of unsaturated demand.

In the U.S., our major growth is coming from a very different set of circumstances. As a U.S. company, with U.S. stockholders and U.S. financial obligations, it has long been our goal to strengthen our base of U.S. earnings and 1965 will be the first year in which our total company's dividend requirements will be met by earnings from the U.S.

With little commercial business to build on we, therefore, took the opportunity to thoroughly research the outlook for various segments of the U.S. economy before making a move and identified a few key areas which we believed represented the best growth potential in the coming decades. Needless to say, near the top of our list was the broadcasting field, but more importantly it was our belief that the overall field of consumer services represented one of the most attractive areas of future growth, so that a number of our major acquisitions (Avis, Aetna Finance, etc.) have been concentrated in this sphere.

* * * * *

[Federal Communications Commission Exhibit No. J-232; presented by Justice Department]

[3029] INTERNATIONAL TELEPHONE AND TELEGRAPH CORPORATION, INTERNATIONAL HEADQUARTERS,

December 7, 1965.

To: Mr. H. S. Geneen
From: H. Perry
Subject: *ABC Valuation*

The primary reason that ABC is worth $85 to ITT while it might only be worth $62 to an investor buying a hundred shares in the open market is that the objectives of the two buyers are totally different and the "value" of ABC is very different in terms of those objectives.

The individual (or for that matter institutional) investor is looking at this year's earnings, the price earnings ratios of what he considers to be comparable companies, and is also heavily influenced by a number of other factors of a short-term nature such as program ratings, FCC publicity, trade press rumors, etc.

ITT on the other hand, is looking at the long-term corporate opportunity that such an investment would represent since it is in a sense buying "forever". On this basis the *totality* of ABC is worth considerably more because of the long-term contribution it can make in terms of:

1.) Accelerating the parent company's growth rate.

2.) Improving the company's image and P/E multiple.

3.) Providing a strong element of "cash throwoff" earnings to the total capital needs of the company.

4.) Providing a number of ancillary benefits in the marketing area.

5.) Improving the quality of the total corporate earnings, both by type (service versus manufacturing) and location (U.S. versus foreign).

[Federal Communications Commission Exhibit No. J–238; presented by Justice Department]

[3043] AMERICAN BROADCASTING COMPANIES, INC.

As you know, for about two years we have been intensively researching the broadcasting industry, and closely following all developments that might lead to possible acquisitions, because of our belief that this industry represented one of the most attractive fields for potential ITT entry. Virtually all of the characteristics of the industry score favorably on the criteria we established for desirable acquisitions. During this entire period we have always felt that were one of the major networks to become available, it would represent by far the best opportunity for participation in this industry, and while groups of independent stations or large individual stations might also be attractive, our policy has been not to move aggressively in this direction until we would be convinced that none of the three major networks (and their group of owned stations) might be available.

As a result, the fact that ABC network might now become available represents in our mind one of the major acquisition opportunities in ITT's corporate history with a long list of advantages accruing to us if this acquisition can be consumated.

Included in this report is a detailed analysis of the proposed transaction prepared by Kuhn, Loeb & Co., and a comprehensive discussion of the industry by a independent financial consultant, Roth, Gerard & Company, who is reputed to be the best informed financial house on this industry.

Our comments in this introductory section will, therefore, be limited to a few highlights of what we continue to believe the significant advantages [3044] for ITT to be from such an acquisition.

The unique attraction of the television broadcasting business is that this industry possesses a strong consumer franchise, with limited access to new competitors, without the burden of regulated rates. Furthermore, while it will benefit fully from rising population and consumer discretionary income, its growth is not limited to any narrow product line which may lose its appeal over time, but will benefit over the total spectrum of demand regardless of the changing patterns of this demand. In addition, its basic inventory consists of the zero cost assets of time and air.

The acquisition of ABC affords us with a unique opportunity to add some $20 million of fast growing service income in the U.S. Such a large increment of earnings in a field that is considered readily compatible with our basic communications operation is not often available. As a standard of comparison we might look at a property like United Utilities (which is *not* for sale) and assuming a $475 million acquisition price (25% above current market) versus $400 million for ABC we would only get some $18.8 million of 1966 earnings versus $20 million. More importantly, these earnings would only grow over the next 5 years at an expected rate of about 9% a year versus an earnings growth of some 16% a year expected for ABC over the same period.

In addition to the features of service, growth and franchise position, this is essentially a cash business with low investment requirements in plant, inventories, receivables, etc. In 1964, ABC generated $1.85 of revenues for each dollar of its assets while ITT produced $0.92 [3045] on the same basis. ABC produced $6.01 of revenues for each dollar of plant, 2.6x ITT's $2.31 per plant dollar, and also generated $4.78 per dollar of inventory and receivables, which was 2.3x ITT's output. Not

only did ABC thus produce more per dollar of liquid *and* fixed assets than ITT, but it also generated a higher return on these assets; in 1964 ABC earned 4.8¢ on every dollar of assets while ITT was earning 4.1¢.

Television's high potential earning power and low requirement for capital investment, together with cash developed from theaters, create a large cash generation, which will be available for other corporate opportunities. Once the network attains meaningful profitability, free cash throwoff after capital expenditures and debt repayment should approximate $24 million annually by 1970. In all, we estimate ABC's five year cash throwoff through 1970 will approach $100 million, almost all of which will be available for reinvestment outside the television business.

The magnitude of internal cash generation is such that even at the lower earnings levels of the 1962–64 period, excess cash over and above internal requirements of about $11 million a year amounted to $24 million in total, of which $8.2 million was invested in affiliates and cash acquisitions, and $14.4 million was paid out in dividends. At the end of 1964 the company had $33 million in cash and government securities.

[3046] *ABC estimated cash flow*

[In millions]

	1962–64	1965E	1966E	1970E
Profit plus depreciation	$48.5	$22.3	$27.1	$44.0
Capital gains, options	7.8	2.3	2.5	2.5
Cash generation	56.3	24.6	29.6	46.5
Property and equipment	23.3	9.0	12.0	10.0
Debt retirement	9.3	3.0	3.0	3.0
Cash requirements	32.6	12.0	15.0	13.0
Excess cash generation	23.7	12.6	14.6	33.5
Investments, acquisitions	8.2			
Dividends	14.4			
Total	22.6			

Given a fixed supply of service (available time), the favorable economics of free pricing depend upon growing demand. The television broadcasting industry is supported by commer-

cial advertising, and demand for television time is measured by the advertiser's desire to reach audience. Because television is the most efficient selling medium for branded, consumer non-durables, expenditures for television advertising has been growing at a rate twice that of the economy and three times that of spending for non-television media such as newspapers and magazines. Future demand for television services will reflect the media's basic uniqueness as a selling medium and its relatively greater efficiency to alternative media. This trend is being accelerated by the rapid extension of color, which will add appeal for present advertisers and will attract entirely new groups of national advertisers such as chain merchandisers. [3047] The tremendous impact of television can be illustrated by a number of examples involving otherwise undifferentiated products. Alberto-Culver, advertising exclusively on television, went from $400,000 to $102 million in sales in less than 10 years in highly competitive markets such as hair care preparations. Colgate's "Ajax", an all-purpose liquid detergent, went from virtually no market position to first with an 18% share in a period of about nine months, solely on the strength of a television advertising campaign involving the "white tornado". It has been reported that even the venerable Hershey Chocolate Corporation which has traditionally done no advertising, will shortly enter television to protect its position against competitors who have aggressively used the medium.

Moreover, television is believed to be substantially underpriced relative to other advertising media in terms of impact on the consumer and, therefore, should be able to support significant price increases as demand begins to exceed supply.

This economic environment where increasing advertising demand for exposure on television will be forced upon the fixed supply of available hours on the fixed number of stations will increasingly favor the industry's rate structure. While all networks and stations will benefit, it is our belief that ABC percentage-wise will tend to benefit the most because it has traditionally been the third network to come along in what was a 2½ network demand economy. This is only now shifting to a full 3-network demand structure and, therefore, ABC has not bene-

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fited fully to date from the increasing demand on the part of advertisers for television exposure.

[3048] Operating within this strongly improving demand structure, the networks are a fixed expense business in which additional revenues produce very high incremental profit margins. It is for this reason in our financial projections attached we have projected incremental margins for ABC as shown below:

ABC after tax incremental margins

[By percent]

	1964 actual	1970 estimated	Incremental 1964-70
TV network	Neg.	2.3	7.7
Owned stations	18.4	21.9	24.9
Total company	2.6	5.7	11.7

To test the validity of the *1970* profit margin estimate for ABC, it should be noted that in *1964* the CBS and NBC network operations had estimated after tax profit margins of 5.9% and 3.8% respectively, and the CBS and NBC owned and operated stations had profit margins of 21% and 26%.

Furthermore, an analysis of the price we are effectively paying for component parts of the operation indicates that very little is being paid (at current market rates) for the network franchise of ABC.

[3049] *1966 earnings value*

[Millions]

	E. 1966 net	P/E	Value	Amount
Total price				$400
Division:				
Television stations	$12.0	24x	$288	
Radio stations	2.0	18x	36	
Theaters	3.1	14x	44	
All others	1.2	16x	19	
Total				387
Cost of network franchises:				
Radio	(1.5)			
TV	3.1			
	1.6	8x		13

NOTE.—See exhibit I (p. 10) for methods used to construct above table.

In effect, the above table demonstrates that a very low residual value of our purchase price is attributable to a network operation where in many ways the greatest leverage exists for increased profitability.

Over and above this, ABC is somewhat unique among broadcasting properties in that the relationship of our acquisition price to the tangible net assets that are being acquired is considerably lower than for most broadcasting properties.

[3050] *Price—Book value relationships*

[Millions]

	Estimated price [1]	Book value	Ratio	Tangible book value	Ratio
Taft	$130	$16	8.1×	$(16)	Infinite
Metromedia	120	29	4.1×	16	7.5
Cox	119	21	5.7×	(9)	Infinite
Scripps-Howard	104	13	8.0×	12	8.7
Capital Cities	100	10	10.0×	(14)	Infinite
Total	573	89	6.4×	(11)	Infinite
ABC	400	119	3.4×	104	3.8
CBS	1,060	233	4.5×	204	5.2

[1] 25 percent over market, except ABC.

Based on 1966 ITT earnings estimates of $84 million, the combination with ABC would generate earnings of $104 million broken down as follows:

	Manufacturing		Service		Total	
	Millions	Percent	Millions	Percent	Millions	Percent
Before Merger	$49	58	$35	42	$84	100
After Merger	$49	47	$55	53	$104	100

[3051] As you can see this will make dominant the more stable service segment of our earnings. In addition, the expected 1966 split of earnings between U.S. and Foreign would be:

	U.S.		Foreign		Total	
	Millions	Percent	Millions	Percent	Millions	Percent
Before merger	$32	38	$52	62	$84	100
After merger	$52	50	$52	50	$104	100

Therefore, both by *type* and *location* ABC will importantly add to the *quality* of ITT earnings, particularly in the minds of the investment community, which should provide tangible benefits for our stockholders. I need only point to RCA, where broadcasting represents some 40% of earnings and where the current P/E is 29x 1965 earnings compared with our 1965 multiple of 19x.

EXHIBIT I

[3052] In the table on Page 7 we developed values for each segment of ABC based on an earnings breakdown to which we assigned what we considered an appropriate P/E ratio. The justification for these ratios is as follows:

(1) *Owned and Operated Television Stations*

We assigned a 24x P/E to these earnings based on the market value of existing group broadcasters modified by a consideration of the cities in which the ABC stations operate.

	P/E E1965 Earnings
Storer	24x
Cox	20x
Scripps Howard	19x
Capital Cities	18x
Taft	17x
Average	20x

From the table above, the average 1965 P/E of group broadcasters is an estimated 20x, and if we assume an average 10% growth for 1966, the P/E would be 18x 1966 earnings. However, since acquisitions are virtually impossible at market value, a 25% premium over market would result in a purchase price P/E of 22–23x 1966 earnings.

[3053] We think this P/E should be adjusted based on the relative national rankings by size of the markets in which stations are operating.

	Operating in Markets Ranked	Median Market Ranking
ABC	1, 2, 3, 6, 7	3
Storer	6, 8, 21, 23, 33	21
Taft	15, 19, 22, 31, 35	22
Cox	7, 9, 23, 27, 29	23
Scripps Howard	8, 15, 36, 110	25
Capital Cities	11, 22, 30, 44, 53	30

From this table it is clear that ABC stations are in the top markets, considerably better than any of the other independent group broadcasters. We thus feel that the quality of ABC's relative markets fully justifies additional 1x or 2x multiples, thus resulting in a 24x valuation multiple for ABC station earning.

2. *Radio Stations*

In this case, we used an 18x multiple of estimated 1966 earnings which in fact may be somewhat conservative. Storer bought WHN for $11 million and in 1965 WHN is expected to earn $450,000 on revenues of slightly higher than $4 million. Thus the purchase price was 2.7x 1965 sales and 24x 1965 earnings.

[3054] ABC has stations in New York, Los Angeles, Chicago, San Francisco, Detroit, and Pittsburgh, which are expected to generate $18 million in revenues and a net profit of $2.0 million in 1966.

The 2.7x sales and 24x earnings test produced values which we thought to be excessive, and we reduced the value of ABC radio stations to 18x next year's earnings and 2x sales.

3. *Theater*

The 14x multiple assigned to theater earnings takes into account a 13x multiple on current earnings *plus* $4 million in contracts receivable (after taxes) for theater properties already sold. Additional valuation factors are the high asset value of theater property as well as the fact that theater earnings have been relatively stable and are now starting to benefit from the national trend of increasing admissions prices, which has not been found to affect attendances. Another major public theater chain had an average 1964 P/E of 16x, and in general has sold in this range. We, therefore, considered 13x to be a reasonable purchase valuation for ABC's theater operations, particularly in light of the fact that total cash flow from theater operations is above $6 million ($3.1 million in earnings, $2.7 million in depreciation, and over $1 million from the sale of theater properties).

4. *"All Other"*

All Other Operations were valued at 16x earnings which takes into account the basic business of film syndication, film pro-

duction, record business, publishing, etc. which are all showing satisfactory growth, although contributing only a small portion of ABC's total earnings.

5. *Network Franchises*

Subtracting out these values produced a net value which would be paid for the network franchise, which based on network earnings, would be a modest 8x earnings.

[3056] FINANCIAL CONSIDERATIONS

The attached four tables present suggested acquisition statistics, recent financial history of ABC, future estimates through 1970, and other pertinent information.

At the suggested acquisition price, ABC would produce an earnings contribution to total ITT shares (after adjusting for new shares issued to ABC) of 7¢ in 1966 increasing to 42¢ by 1970.

It should be noted that all 1966 figures for ABC assume the continuation of a strong economy, since current network economics still are such that advertiser withdrawals in a cyclical downturn would undoubtedly affect ABC more strongly than the other two networks. Nevertheless, our 1966 estimate of $4.25 per share (net profit of $19.9 million) is still below that currently being made by the company of approximately $4.50.

Long term projections through 1970 appear realistic in terms of assumptions for margins, rates, etc. of ABC in relation to the other two networks. As we pointed out in the previous section, 1970 profit margins are still below those experienced by CBS and NBC for 1964. We have also assumed ABC will continue to be in third position through 1970 and still have the limitations of reaching a smaller audience than either of the other networks. While this may be overly conservative, we have not *programmed any improvement in coverage in our projections of revenues and income through 1970.*

[3057] TABLE I.—*ABC suggested acquisition statistics*

	1966	1967	1968	1969	1970
Purchase Price (000)	$400,000	--------	--------	--------	--------
Earnings Estimate—ABC:					
Total (000)	$19,900	$22,900	$26,200	$30,400	$36,000
New Preferred Dividend*	7,000	7,500	8,000	8,600	9,100
Net Available for Common	$12,900	$15,400	$18,200	$21,800	$26,900
Earnings per Share of ITT Stock Issued for ABC	$4.82	$5.76	$6.80	$8.15	$10.05
Pro-Forma Earnings per Share ITT & ABC Combined	$4.27	$4.83	$5.43	$6.12	$6.92
Contribution to Earnings Total ITT Shares Combined	$+.07	$+.13	$+.18	$+.27	$+.42
Purchase Price P/E Ratio	20.1x	17.5x	15.3x	13.2x	11.1x

*Anticipates annual increase of 10¢ per share in common dividend.

[3058] TABLE II.—*ABC suggested acquisition statistics*

Price/Share	4,679,011 shs	$85.50
Exchange Ratio	.5719 shs. ITT Common @ $67	$38.32
	.5719 shs. ITT Preferred @ $82.50*	47.18
	1.1438 shs	$85.50
Total ITT Shares Issued	ITT Common	2,675,926
	ITT Preferred	2,675,926

*Estimated value assuming a 23% premium.

[3059]

TABLE III. *An important comparison*

While the acquisition of ABC is priced at 20x 1966 earnings, ABC is expected to grow faster than the other networks through 1970. Thus, at our acquisition price, the *1970* P/E of 11x is identical to our projected P/E of CBS in that year based on our projections of CBS earnings. Over the long run, the purchase of ABC, therefore, with its higher rate of growth can be projected to the equivalent of purchasings CBS at the current 1965 market price. The higher multiple we pay now for this greater leverage and growth rate ahead will thus be equalized by 1970.

	EPS E1966	E1966 Total Earnings (millions)	Present Market	E1970 Total Earnings (millions)	1970-P/E
CBS	$2.60	$51.7	$935	$75	11x
ABC	$4.25	$19.9	*$400	$35	11x

*Estimated purchase price.

[3060] TABLE IV

Note that projections show revenues increasing at a 7% annual rate through 1970 compared with an actual 8% rate for the period 1959 through 1965. Earnings, benefiting from higher incremental margins, are projected to compound at 18% compared with a 12% actual rate from 1959 to 1965.

Excess cash flow is estimated at $24 million in 1970, which might be available for other ITT corporate purposes.

[3061] TABLE IV.—*ABC sales and net income, 1959–E1970*

[$ Million]

	1959	1960	1961	1962	1963	1964	E1965	Growth Rate 1959–E1965 (percent)
Revenues	$288.0	$334.4	$363.1	$379.7	$386.7	$420.9	$460.0	8
Net After Taxes	$8.0	$10.5	$9.9	$10.8	$7.4	$11.0	$15.4	12
Profit Margin (percent)	2.8	3.1	2.7	2.8	1.9	2.6	3.3	....

	E1965	E1966	E1967	E1968	E1969	E1970	Growth Rate E1965–E1970 (percent)
Revenues	$460.0	$500.0	$530.0	$562.0	$596.0	$635.0	7
Net After Taxes	$15.4	$19.9	$22.9	$26.2	$30.4	$36.0	18
Profit Margin (percent)	3.3	4.0	4.3	4.7	5.1	5.7	....
Estimated *Excess*—Cash Generation	$12.6	......	......	......	......	$23.5	....

[3062] KUHN, LOEB REPORT

INTERNATIONAL TELEPHONE AND TELEGRAPH CORPORATION AND AMERICAN BROADCASTING COMPANIES, INC., DECEMBER 6, 1965

*   *   *   *   *

[3064] OPINION

International Telephone and Telegraph Corporation (ITT) is contemplating entering into negotiations to acquire Ameri-

can Broadcasting Companies, Inc. (ABC). One of the possibilities being considered by ITT is that of attempting to reach an agreement whereby there would be an exchange of .5719 share of common stock plus .5719 share of a new convertible preferred (convertible into common stock on a share-for-share basis) of ITT for each share of common stock of ABC. We have been asked to evaluate the fairness of the proposition with respect to ITT's stockholders and to assist ITT in its further deliberations as to an appropriate course to follow in the anticipated negotiations. In our opinion we consider the proposition to be fair and equitable to the stockholders of ITT. Based on the financial factors which we have reviewed, the suggested terms are fairly related to the level of earnings which each company has obtained and expects to obtain under present conditions.

In arriving at our opinion we considered, among other factors, the balance sheet position of each company, contributions to combined assets and earnings, sales and earnings trends and common stock price ratios. Consideration was also given to a study of the financial results and common stock price ratios of a group of publicly owned companies which are comparable to ABC.

Although we have not been supplied with any dollar estimate of merger savings, it is evident from our review of the operations of the two companies that the merger would serve the interest of both companies. An immediate benefit to be derived by ITT from the inclusion of ABC's earnings would be an increase in ITT's proportion of net income from domestic sources from the approximately [3065] 40% expected in 1965 to slightly more than 50% on a pro forma basis for 1965. It will also increase the service contribution to domestic net income from 23% to 37% for the same period.

We did not make a physical appraisal or engineering study of plants and properties or a market survey of products and services offered; nor did we analyze the effects on the merged company of the income tax and pension situations of ITT and ABC.

Contributions to Combined Company

Based on 4,679,011 shares outstanding of ABC, under the proposed offer, ITT would issue (i) 2,675,926 shares of preferred stock with a liquidating value of $133,798,300 ($50 per share) and an aggregate dividend requirement of $6,422,222 (assuming a dividend rate of $2.40 per share) and (ii) 2,675,926 shares of common with an aggregate dividend requirement of $3,211,111 at the current rate of $1.20 per share. The additional dividend requirements on this basis would total $9,633,333 which represents 60.6% of ABC's estimated 1965 earnings of $15.9 million. We have noted, though, the rapid growth in net income of ABC in the last few years, and we do not consider that the added dividend requirements involved in the exchange offer would be materially burdensome to the merged company.

After conversion of the preferred there would be outstanding 25,265,293 common shares of which ABC stockholders would receive a total of 5,351,852 shares or 21.2%. The following table shows both companies' contributions [3066] to major balance sheet and income items:

Contributions to major balance sheet and income account items

	Combined Totals (Millions of Dollars)	Percent Contribution	
		ITT	ABC
Balance Sheet Items:*			
Total Net Assets	$1,474	87.4	12.6
Common Stock Equity	731	83.7	16.3
Net Current Assets	429	88.4	11.6
Cash & Equivalent	96	55.8	44.2
Net Fixed Assets	811	91.3	8.7
Net Income for Common:			
1963	60	87.7	12.3
1964	73	84.9	15.1
1965 Est.	86	81.4	18.6
1966 Est.	104	80.8	19.2
3 Yr. Average 1963–1965	73	84.3	15.7
1964 Revenues	2,008	79.0	21.0

*As of September 30, 1965 for ITT and December 31, 1964 for ABC adjusted for issue of $52.0 million of notes in July, 1965.

Although ABC would receive a greater share of the combined company than its contributions to earnings, the trend of its earnings is favorable and its cash contribution is substantial.

Values Before and After Exchange

As a result of the leverage created by use of preferred as part of the exchange offer and the sharp rise in ABC's estimated earnings for 1965 and 1966, there would be no dilution in current earnings per share common for ITT as [3067] shown in the following table:

Earnings per share common of ITT before and after exchange

	Before exchange	After exchange
1961	$2.05	$1.87
1962	2.16	2.14
1963	2.72	2.38
1964	3.17	2.95
1965 est	3.50	3.51
1966 est	4.20	4.30
5 year average 1961-1965	2.72	2.57
3 year average 1963-1965	3.13	2.95

The conversion of the 2,675,926 shares of preferred into an equivalent number of shares of common would result in a dilution of 10.6%, offset in part by a $6.4 million saving in preferred dividend requirements. After conversion the $3.51 earnings per share for 1965 would decline to $3.39. However, with the new preferred stock non-callable for 10 years and the dividend set at twice the common dividend (but never less than $2.40) it is improbable that any preferred will be converted during the first 10 years.

At the recent price of $67 per share the common stock of ITT is selling at 19.2 times estimated earnings of $3.50 per share for 1965. After the merger is consummated, the new company should command a higher price to earnings ratio as the market gives recognition to the potential benefits to be derived from the combination of the companies.

An indication of possible price ratios for the new company may be inferred [3068] from the current multiples accorded the earnings of Radio Corporation of America, a company that would be comparable to the new company. At its recent price of 48⅝, RCA common stock is selling at 35.5 times 1964 earnings of $1.37 per share and 29.5 times estimated 1965 earnings of $1.65 per share.

[3069] AMERICAN BROADCASTING COMPANIES, INC.

The company was incorporated in New York, November 15, 1949, as United Paramount Theatres, Inc. to acquire all domestic theatre and related properties of Paramount Pictures, Inc. The name was changed to American Broadcasting-Paramount Theatres, Inc. at the time of the merger with American Broadcasting Co., Inc., on February 9, 1953. The present name was adopted July 2, 1965.

ABC operated the third largest of three nationwide television networks in terms of gross time billings, one of four national radio networks and the largest motion picture theatre chain. Other phases of the business include phonograph records and publishing. It also has interests in three electronics companies.

Broadcasting Operations

ABC's nationwide television network consists of five owned and operated stations: WABC–TV New York, WBKB–TV Chicago, WXYZ–TV Detroit, KGO–TV San Francisco and KABC–TV in Los Angeles and 263 affiliated stations at January 2, 1965. At the end of 1964 the television network had 130 primary affiliates which covered 93.5% of all homes with television sets in the United States. The average evening program was carried by 179 stations providing 96.7% coverage.

The radio network consists of six owned and operated stations: WABC–AM, FM New York, WXYZ–AM, FM Detroit, KGO–AM, FM San Francisco, [3070] KABC–AM, FM Los Angeles, KQV–AM, FM Pittsburgh, and WLS–AM and WENR–RM Chicago. At January 2, 1965 there were 419 affiliated stations.

Television and radio stations affiliated with ABC receive and broadcast programs supplied by ABC in addition to their own local programs. Generally, the network programs originate in New York, Chicago and Los Angeles.

Theatre Operations

The company had 15 major operating theatre subsidiaries as of January 2, 1965 which operate 420 theatres including first-run and second-run theatres as well as drive-in theatres located principally in the south and southwest.

Phonograph Operations

ABC-Paramount Records, Inc., a wholly-owned subsidiary, produces phonograph records on the ABC-Paramount, Apt and Impulse labels. Its subsidiary, Grand Award Record Co., Inc., releases and distributes records under the Grand Award and Command labels. ABC-Paramount Records also controls Westminster Recording Co., producer of classical records, and Ampco Music, Inc. and Pamco Music, Inc., music publishers.

Film Syndication

ABC is engaged in distribution of television programs to television stations both in domestic and foreign markets through its subsidiary, ABC Films Inc.

Electronics

ABC has interests in three small electronics concerns. It owns 12% of Microwave Associates, Inc., a producer of microwave semi-conductors [3071] tubes and related products. In addition, ABC has a 19% stock interest in Technical Operations, Inc., a manufacturing, research and development organization. It also holds preferred stock, covertible into a maximum of 20% of the common, of Visual Electronics Corp., a small concern specializing in communications systems.

Amusement Centers

Florida State Theatres, Inc. and Silver Springs, Inc., both wholly-owned, operate two scenic tourist attractions centers in Florida.

Publishing

In 1959 ABC acquired Prairie Farmer Publishing Company, Chicago, which publishes three farm papers in the midwest.

International Operations

ABC has associations with 53 foreign TV stations in 23 countries, primarily in Central and South America and also in Australia, Japan, the Philippines, Canada, Iran, Okinawa, Mexico, Lebanon and Nigeria.

Revenues

Revenues of ABC have increased in every year since 1959. From 1959 to 1964, total revenues increased 46.2% or at an

average annual compound rate of 7.9%. However, analysis of the relative contribution of the three major divisions reveals important changes in the composition of revenues. Television and radio broadcasting revenue which accounted for 59.9% of total revenues in 1959 contributed 73.3% in 1964. These revenues increased 79.8% during the five-year period, or at an average annual compound rate of 12.5%, as [3072] summarized in the following table:

($000)	Percent of Total	1959	Percent of Total	1964	Percent Change	Average Annual Compound Rate of Growth (percent)
Radio and Television	59.9	$172,469	73.7	$310,135	+79.8	12.5
Theatres	31.7	91,139	18.7	78,891	−13.4	neg.
Merchandise Sales and Other	8.4	24,349	7.6	31,889	+31.0	5.5
Total	100.0	287,957	100.0	420,915	+46.2	7.9

The 12.5% average annual compound rate of growth in ABC's radio and television revenues in the five-year period 1959–1964 is substantially higher than the growth rates of total expenditures by advertisers in various media as shown in the following table:

[Dollars in millions]

	Percent of total	1959	Percent of total	1964	Average annual compound rate of growth (percent)
Radio and Television	19.1	$2,149.8	22.1	$3,121.9	7.8
Newspapers and Magazines	39.2	4,412.2	37.1	5,247.7	3.5
Direct Mail, Outdoor and Other	41.7	4,692.8	40.8	5,785.4	4.3
Total	100.0	11,254.8	100.0	14,155.0	4.7

Source: Printers' Ink.

Profit Margins and Earnings

In 1964, net income of ABC as a percent of total revenues was 2.6% and it is expected that the profit margin will be 3.4% in 1965. This margin may be compared with CBS' 7.7% in 1964. With the benefits that would accrue to ABC through

a merger with ITT, it may be expected that the profit margins of ABC could improve substantially. Assuming a profit margin of 7.5% on estimated [3073] revenues of $465 million in 1965 net income could amount to $34.9 million, or $7.45 per share common compared with the $3.40 per share common estimated for 1965.

Balance Sheet Data

Capitalization

Among the companies selected for comparison with ABC, several have relatively high debt ratios resulting primarily from the use of debt to finance acquisitions. Capital Cities Broadcasting Co. spent $19.5 million in 1961 and $15 million in 1964 for several radio stations and at December 31, 1964, 73% of its capitalization consisted of debt. Of the companies in the group it had the highest debt ratio. Other companies exhibiting relatively high debt ratios were Taft Broadcasting at 59.8%, Cox Broadcasting 57.6% and Medromedia 51.6%. Only Scripps-Howard had no debt in its capital structure at the end of 1964. Relative to the other companies in the comparison group the capitalizations of ABC and CBS are moderately conservative. CBS, the company most comparable with ABC, had 20.2% ($61.5 million) of its total capitalization of $304.9 million in long-term debt. ABC, also utilizing debt in moderate amounts, had 26.5% ($46.6 million) of debt in its total capitalization of $176.1 million. Current maturities of long-term debt for ABC, as of January 2, 1965, amounted to $0.5 million while CBS showed current maturities of $1.5 million.

The combined pro forma capitalization of ITT and ABC would be $1,473.9 million consisting of 31.2% debt ($459.4 million), deferred taxes and other items 8.5% ($125.2 million), minority interest 3.7% ($55.5 million), [3074] preferred stock 8.8% ($129.3 million), and common equity 47.8% ($704.6 million). The $129.3 million of preferred stock includes the new convertible preferred stock at stated value of $10 per share. The liquidating value of the $129.3 million of preferred would be approximately $236 million.

The pro forma capitalization ratios would be little changed from those of ITT prior to the merger.

Applicable Assets

Companies in the broadcasting field have negligible requirements for inventories. Current assets generally consist of cash, receivables and film rights. The ratio of current assets to current liabilities for most of the companies in the comparison group was about 1.5 to 1.0. CBS and ABC were exceptions, with both companies exhibiting a significantly stronger ratio of 2.4 to 1.0. As of January 2, 1965, ABC's cash position, was stronger than that of CBS, with 27% of its total current assets consisting of cash and equivalent contrasted with 22% for CBS. ABC's $33 million of cash and equivalent before its recent financing represented 65% of total current liabilities while CBS' cash and equivalent covered 53% of current liabilities.

ABC recently improved its cash position as a result of a recent $52 million financing. The proceeds refunded $42.5 million of debt and added $9.5 million to cash.

The greatest concentration of assets for most companies in the comparison group was in intangibles arising mainly from the excess of investment cost over the amounts allocated to the underlying net tangible assets acquired.

[3075] Metromedia had 57% of its assets in fixed assets because of its large outdoor advertising operation and Scripps-Howard with only 10% in intangibles had 66% of its applicable assets in net working capital.

ABC and CBS had relatively minor amounts of intangible assets. Fixed assets of ABC totaling $72.1 million, represented 40% of applicable assets contrasted with 39% for CBS.

Price-Earnings Ratios

On November 30, 1965, at a price of $59¾, ABC was selling at 25.1 times 1964 earnings of $2.38 per share and 27.9 times its average earnings for the three years 1962 through 1964.

CBS, the company most comparable to ABC, was selling at 16.9 times 1964 earnings and 20.6 times its average earnings for the three years, 1962 through 1964. The other companies in the comparison group were selling at multiples of 1964 earnings ranging from 17.8 for Metromedia to 28.0 for Capital Cities Broadcasting.

Current price ratios

	1964	3 Year Average 1962–1964	1965 Estimate
ABC	25.1x	27.9x	17.6x
CBS	16.9	20.6	17.2
Metromedia	17.8	22.5	15.9
Capital Cities	28.0	35.1	17.8
Cox Broadcasting	26.9	32.0	19.7
Scripps-Howard	22.4	25.6	[illegible]
Storer	25.6	30.7	24.2
Taft	22.2	33.4	17.2

As indicated in the preceding table the shares of ABC are currently selling at 17.6 times 1965 earnings, estimated at $3.40 per share. This is in [3076] line with the price earnings ratios, based on estimated 1965 earnings of the other companies in the comparison group. The exception is Storer Broadcasting whose shares have recently been bid up strongly as the result of its acquisition of an 87% interest in Northeast Airlines.

Over the past five years, based on average prices and average earnings, ABC's common stock sold at 17.8 times earnings while over the past three years it sold at 17.1 times earnings. However, it should be noted that in each of the years 1960 through 1964 the stock has on occasion sold at higher multiples as shown below:

Historical price earnings ratios, 1960–64

Year	High	Low
1960	19 x	10 x
1961	27	18
1962	20	9
1963	24	17
1964	23	12

* * * * *

[3091]

ROTH, GERARD & Co.,
New York, N.Y.

THE TELEVISION INDUSTRY

The American television industry is unique in that it is totally supported by commercial advertising. The basic relationships in the industry follow:

The *advertiser* is the sole customer of networks and stations, and communicates a sales message to the consuming public in order to sell products.

The three *networks* provide programs and act as national sales agents for stations. The 575 *stations* give the network and the advertiser access to consumers in local markets. Markets are defined by an effective signal radius of 50 to 75 miles, and each market has been assigned between one and seven VHF stations, the specific number depending upon population and technical factors. Together, the networks and the stations are the agencies by which the advertiser reaches the consumer.

[3092] Revenues and earnings before taxes for the industry were as follows:

	Revenues		Pretax Profit	
	(MM)	Percent	(MM)	Percent
3 Networks	$712	46	$60	14
15 Network Owned Stations	216	14	96	23
3 Network-Station Units	$928	60	$156	37
560 Indep. Owned Stations	606	40	259	63
Total Television Industry	$1,534	100	$415	100

Network revenues exclude $214 million of compensation paid to stations. Profits are not affected.
Source FCC.

The parent company of each of the networks also owns five VHF television stations, the maximum permitted any group under FCC rules. The networks' sole access to the public is through independently owned stations, with the exception of the fifteen network company owned units. Some 523 independently owned stations are affiliated with a network. The remaining 37 stations operate independent of network affiliation, because there is no affiliation available in their markets. The network pays each affiliate (including network owned outlets) to accept network supplied programming and network solicited advertising. This programming and sales function is provided at no cost or risk to the station, which is free to sell commercial time between network programs. Because networks pay stations to take attractive programming which generates large audiences and enhances adjacent commercial time, the largest part of the television industry's profit has always been at the station level.

[3093] The estimated pre-tax profit breakdowns of network and network owned stations in 1964 are as follows:

[In millions]

	ABC	CBS	NBC	Total
Network	$(4)	$41	$23	$60
5 VHF Stations	18	39	39	96
Total	$14	$80	$62	$156

ABC is the smallest of the three networks and its five stations are less profitable than those owned by CBS and NBC. This is basically a matter of ABC being the last competitor to achieve major status in an industry where access in many markets is limited to less than three outlets. *The same station scarcity factors that make ABC's coverage disparity relatively permanent insure that the industry is closed to a fourth network.*

The fact that network competition is fixed at three, station outlets in all but the smallest markets are frozen, and available hours are limited, assures that the capacity of the network industry to service advertising demand cannot be expanded substantially. In contrast, demand is expected to grow at a compound rate of 6.5%, aided by the saturation of color. Competitive discounts, which were caused by each networks desire to secure business in an economy which could not support three factors, should disappear and be replaced by a premium price structure based on scarcity of service. In addition, with a fixed plant investment, profit leverage is indicated by relatively fixed programming costs and static administrative, selling, technical, cable (aside from minor [3094] increases for color) and depreciation expenses. Substantial leverage has not been realized in the past since advertiser demand was less than industry capacity. Over the past three years, increased advertiser demand has brought the industry close to a balance with supply, and we believe that future earnings will reflect the leverage inherent in the business. This will be particularly true for the ABC network, which is now only operating at a modest profit because of deeper discounts and more unsold time relative to competition as a result of its marginal position. Despite continuing

progress from UHF set conversion and the development of CATV, we feel that solution to ABCs basic coverage disparity is unlikely by 1970. However, an enormous additional marginal profit opportunity exists if geographic coverage can be raised to the levels of CBS and NBC. For example, if ABC could eliminate its 5%–10% coverage disparity, present revenues might increase an estimated $20 million, of which approximately two-thirds or $13 million would flow through in additional pretax profit.

The same basic economic factors apply to ABC's five television stations which have substantially fixed costs despite rapidly increasing demand. Although these stations are rather profitable, we believe earnings can double between 1965 and 1970 as a result of their substantial operating leverage.

Throughtout this report, the term "network" will exclude stations owned by network parent companies. The term "owned and operated" (O&O) stations will refer to the five outlets operated by each network company, or, in aggregate, to the fifteen associated stations. All earnings figures contained herein are *before* taxes.

[3095] AMERICAN BROADCASTING

Following is our estimated divisional breakdown of revenues and pretax profits for the American Broadcasting Companies, Inc. for the years 1963 through 1966, with projected results for 1970.

Estimated sources of gross revenues

[In millions]

	1963	1964	1965	1966	Projected 1970
Network TV	$212	$233	$264	$290	$375
O&O TV	43	49	57	65	95
Other TV	5	6	6	7	10
Total TV	260	288	327	362	480
Radio	21	22	23	24	30
Theaters	76	79	78	80	85
All Other	30	32	32	34	40
Total Gross Revenues	$387	$421	$460	$500	$635

Estimated sources of pretax profit

[In millions]

	1963	1964	1965	1966	Projected 1970
Network TV	($5)	($4)	$2	$6	$17
O&O TV	16	18	20	23	40
Other TV	0	1	1	1	2
Total TV	11	15	23	30	59
Total Radio	0	0	0	1	2
Theaters	4	6	5	6	7
All Other	1	1	1	1	2
Total Pretax Profit	$16	$22	$29	$38	$70
Effective Tax Rate (percent)	55.1	50.4	47.0	47.0	48.0
Net Income	7	11	15	20	36
Earnings Per Share	$1.62	$2.38	$3.30	$4.25	$7.50
Adjusted EOY Shs. (000)	4,557	4,624	4,680	4,700	4,800

[3096] The profit breakdowns above fully allocate corporate overhead, using figures reported to the Federal Communications Commission for network television, owned and operated television stations and radio. Since allocations are made arbitrarily for the FCC these figures may not be directly comparable to those kept for internal purposes by ABC. Estimated 1966 earnings of $4.25 assume strong economic conditions throughout the year and evening network television ratings continuing at their present level 10%–15% behind competition. A Nielsen rating represents the percent of the nation's 53.8 million television homes tuned into a program in an average minute, i.e., a rating of 19.5 represents 19.5% of the nation's television homes. Therefore, what the public does not understand is that a Nielsen rating reflects total population coverage as well as program popularity. Since ABC's geographic coverage is less than that of its competitors, it operates at a built-in 5%–10% ratings disadvantage. Because network television and operation of television stations are the major areas of ABC's current operations and future potential, they are treated in detail in the remainder of this report. Brief comments on the company's other operations follow.

"Other TV" consists of film syndication, ABC International, which represents the largest American interests in and associations with foreign television stations, and a national sales organization for the company's owned and operated television and

radio stations. In may respects these are support functions for television operations and should remain relatively minor factors.

[3097] ABC operates one of the four national radio networks and owns six radio stations in major markets. The radio network ranks third in revenues and has been consistently unprofitable, with losses estimated at about $1.5 million. However, station earnings have roughly offset the network loss in recent years. We expect increases in station earnings and some reduction of the network loss, resulting in better results from radio in the future.

ABC operates the largest theater chain in the country, with some 420 units. The theater business is relatively stable and ABC has recently become more aggressive in adding new locations, while pursuing its program of disposing of unprofitable units. Moreover, net earnings plus depreciation and cash from theater dispositions can be expected to exceed theater capital expenditures by about $5 million annually, which is available for other corporate purposes. We expect modest earnings growth from this source. "All Other" includes ABC-Paramount Records, two Florida scenic attractions, and three farm publications. In aggregate, these activities do not constitute a significant portion of the company's operations, nor are they expected to in the foreseeable future.

[3098] THE ECONOMICS OF NETWORK TELEVISION

Television broadcasting is unique in American industry in that it enjoys regulated competition and free market pricing. As a practical matter the number of networks is limited to the present three by the fixed number of VHF station franchises (which cannot be increased for technical reasons) available in each market. Within the framework of three networks, supply is further limited by the number of available commercial program hours. Advertiser demand has increased due to the effectiveness of television as a selling medium combined with a growing economy. (The medium's efficiency will be substantially enhanced with the advent of color, now in a sharp upswing.) This has resulted in a constant increase in demand relative to supply, causing sharply higher industry profitability

since the recession year of 1961. Continued anticipated increases in advertiser demand combined with the limited supply should result in higher prices over a relatively fixed cost base, with network earnings of ABC, CBS and NBC expected to rise from $60 million in 1964 to $150 million in 1970.

Network companies are basically frozen at three by restricted market outlets; only 38% of American television homes are presently serviced by more than three VHF stations. While the UHF band theoretically allows a fourth network to compete, the inherent signal limitations of UHF stations and the resulting unattractive economics make it unlikely that the UHF band will provide any solution to station scarcity in the intermediate future (Appendix A). Pay television faces the almost insurmountable problem of [3099] high startup costs to build an audience; however, this audience can only be attracted through expensive programming competitive with that of free TV. We do not believe any of the proposed pay TV systems will be economic in the foreseeable future (Appendix B).

The network places an advertiser's message before the public through an interconnected group of stations (affiliates). Network affiliation is very profitable for stations since they are paid a share of network revenues (station compensation) without cost or risk to them. As an indication of importance, station owned station profits in 1964. Moreover, the substantial audicompensation payments accounted for 68% of all non-network owned station profits in 1964. Moreover, the substantial audiences generated by costly network programming make possible better rates for adjacent spot commercials and enhancement of station controlled program time before and after network broadcasts.

In markets with three or more outlets, each network has an affiliate. In markets where there are one or two stations, networks share affiliates. The network acts as a national sales agent and provides the station with a comprehensive program service as well as bearing the cost of transmission through AT&T cables.

In the last decade, network television has become a major national advertising medium, accounting for 13% of total national advertising expenditures. Television's strength derives

from its unique ability to entertain nationwide audiences visually in the home, and to sell this exposure to advertisers. At present, 92% of U.S. homes have television sets, close to a practical maximum. The national television audience has increased [3100] about 2% annually in line with population growth, and the percentage of sets in use has remained static. However, multiple set homes have been increasing rapidly, and now stand at 21% of television households. Population trends toward a younger mix are quite favorable since younger people are more active television viewers. In addition, maturation of young adults brought up with the television habit may tend to increase total viewing over the years. On balance, we expect modest increases in the television audience. However, future network profitability will be determined by increasing advertiser desire to reach this audience, not by absolute audience growth. Between 1960 and 1964, television homes were up 10%, but network revenues were up 42%.

We believe television is substantially underpriced relative to other advertising media when measured by the cost required to effect a consumer buying decision. Selling efficiency is evaluated by factors of both circulation (quantity) and impact (quality), neither of which are comparable between media. Considering television's potential for reaching mass audiences and making a unique audio-visual impact, we believe it represents a significantly better selling medium for most volume consumer products. Television is necessarily the primary merchandising vehicle for mass market, low unit cost, and repetitive branded products. These items, such as soap, foods and cigarettes, must be heavily presold as they are distributed through self-service outlets. Continuing emphasis on national brands and new product introduction are other factors in growing advertiser demand for television.

[3101] There is no statistical proof that television is underpriced. However, television advertising expenditures are growing substantially faster than those of other media, indicating that advertisers are becoming increasingly convinced of television's sales efficiency. Between 1960 and 1964, network

television advertising was up about 42%, while national non-television expenditures were up 13% (Appendix C).

The fixed number of available prime broadcast hours and growing advertiser demand has resulted in higher prices and increasing profits. However, advertisers have enjoyed an increase in value received, as circulation has risen faster than prices. Network television prices are up 14% since 1960 while circulation has increased 20%, resulting in a 5% decline in network unit costs.

Indices of cost per unit of exposure

[1960=100]

	Network TV	Spot TV	Newspapers	Magazines	Outdoor
1960	100	100	100	100	100
1961	99	101	102	105	104
1962	98	100	105	107	106
1963	98	103	107	106	110
1964	95	102	106	105	111

These indices do not measure relative intermedia costs.

Source: Printers' Ink.

Network profitability could increase substantially as advertiser awareness of low relative cost continues to result in higher prices. While there is no way to measure the extent of television's relative underpricing, [3102] we believe there is room for substantial price growth. Since programming costs and operating expenses are relatively fixed, revenue increases would have an extremely favorable effect on earnings.

ABC's rise to competitive status during the late fifties occurred at a time when there was not enough business to support three networks, which resulted in sharp price cutting. Increased demand has corrected this situation and network profitability is now in sharp upswing. We expect this growth pattern to continue cyclically.

Color telecasting costs are currently being borne largely by the networks. However, we expect present color set saturation of 8% to reach roughly 25% by the fall of 1967, which would allow networks to recoup a major portion of color costs from

advertisers. Moreover, the enhanced selling efficiency of color for certain products could bring new classes of advertisers to the television medium. As color set saturation grows, a heavier portion of automobile, carpet and other soft goods advertising budgets should go to television, and there is at least a possibility that the major national retailing organizations (Sears Roebuck, Montgomery Ward, J. C. Penney, F. W. Woolworth) will begin to use the medium. Thus, while color costs are hurting network profitability in the near term, color could be a major impetus to demand and profits in the latter part of this decade.

Federal Communications Commission (FCC) authority over broadcasting stems from the requirement that station licenses be renewed every three years. While no other specific powers are granted, the agency has exercised progressively more influence in relations among networks, advertisers, stations and programmers. Congressional concern for the legislative prerogative is a partial balance to more FCC control, particularly since television is being used effectively for campaign and other political purposes. Legislative awareness of television is reinforced by an active and efficient broadcasting lobby.

While much public attention has been attracted by FCC proposals to change industry practice, the fact is that no Commission action in the last decade has altered the basic economic structure of the network television business. Major FCC policy goals have been extension of competition and preservation of the local character of television (principally through UHF), decentralization of station ownership, and greater diversity and "quality" of programming. A major FCC action was a ruling against "option time" (a contractual arrangement whereby networks reserved time on local stations) which had no real impact because of the economic desirability to the stations of network programming and compensation. Recent FCC actions of consequence involve a proposed limitation of network control of prime time entertainment programming to 55%–60% and a ruling that no owner of a VHF station in the top 50 markets may acquire another VHF station in the top 50 without a full Commission hearing. There is increasing evidence

that the first proposal is being quietly sidetracked. The second ruling has never been tested, but in any event will have no impact on the network's owned and operated stations.

[3104] The FCC has no regulatory control over prices, and attempts to extend its authority in that direction have been sharply and decisively rejected by Congress. If network profitability over the next five years advances as anticipated, there will be renewed attempts by the FCC to regulate pricing. However, the industry would enjoy a much higher base of profitability at that time, and such attempts would be strongly opposed.

While the FCC's role as critic and overseer has received much publicity, the Commission has always maintained a strongly protective attitude toward the broadcast industry. This has been true in the case of pay television; we believe it will shortly become so in the case of CATV, and may be an important factor in the potential problem of satellite broadcasting and increased access to markets. Although the technology of transmitting television signals by satellite appears close to reality, this would only affect the economic structure of the industry if such transmission were permitted to bypass the local station and be beamed directly into the home. However, it is our belief that the FCC, for both political and practical considerations, would not permit this to take place. Apart from possible overriding international political complications, the entire thrust of the FCC has been to develop and promote the local character of television, and objections from regional and local advertisers are likely to be strong since direct transmission might freeze them out of the medium. Therefore, we believe that the Commission will fight to preserve the limited access to markets now provided by local stations which would in turn protect the three network system as it exists today. On balance the FCC's bark will probably continue to be considerably worse than its bite, although a steady stream of publicity will be a fact of life in the television industry.

[3105] HISTORICAL REVIEW AND OUTLOOK

Television network figures reported to the FCC for the five years ended 1964 with a projection for 1970 follow:

[In millions]

	1960	1961	1962	1963	1964	Projected 1970
Net Time Revenues	$399	$405	$442	$457	$479	$625
Program & Sundry Rev	258	302	343	381	447	725
Total Net Revenues	657	707	785	838	926	1,350
Expenses:						
Program	(339)	(386)	(425)	(449)	(502)	(750)
Station Comp	(162)	(181)	(201)	(202)	(214)	(270)
Tech/Transmission	(66)	(63)	(65)	(67)	(78)	(81)
S, G&A	(48)	(45)	(50)	(56)	(64)	(90)
Dep. & Amort	(8)	(7)	(7)	(8)	(8)	(9)
Total	(623)	(682)	(748)	(782)	(866)	(1,200)
Pretax Profit	34	25	37	56	60	150

"Net Time Revenues" are after deducting advertising agency commissions. Some of the expense categories are partly estimated in order to get more meaningful breakdowns.

The period 1960 through 1964 was characterized by increasing volume which consistently narrowed the margin between supply and demand to a point approaching a full three network economy. Three major factors in network economics have influenced earnings since 1960. Television homes increased from 49 million to about 52 million, which was accompanied by higher listed time rates. However, because of widening discounts, network realization from increased rates rose less rapidly. Network profitability was hampered by increased station compensation, which is paid on the basis of listed prices before discounts. Between 1960 and 1964, station compensation rose 32% to $214 million, whereas net time revenue increased only 20% to [3106] $479 million. Sharply expanded news and public service activity was another negative cost factor. Competition was aggravated by reduced growth in advertiser demand for network time during the 1960–61 recession. We believe future recessions will have a lesser impact on earnings than in 1961 because the industry is operating at a much higher demand level relative to supply. However, there was a sharp recovery in demand during 1962, and continued economic expansion since that time is reflected in reduced competitive discounts and increased profits.

During the period under review, there was a continuing trend toward greater network control over programming, due in part to competitive factors and in part to the FCC's insistence upon network responsibility for the integrity and content of programming after the quiz scandals of 1960. Network control of programming increased from 82% in 1960 to over 90% presently, which, combined with lesser competitive discounting, resulted in an unusually high 73% increase in program revenues between 1960 and 1964. Program expenses rose at a lesser rate, with the result that the "program loss" was reduced in 1963 and 1964 despite increased news expenditures and the non-recurring factors of the Kennedy assassination coverage in 1963 and the political conventions and election in 1964. We expect program losses to continue to narrow, although a substantial program loss for the three networks would appear to be inherent as a public responsibility in consideration of a regulated franchise.

The fixed investment required in the network business is relatively low as evidenced by our estimate that the total gross plant investment was about $120 million for the industry at the end of 1964. Moreover, once [3107] basic assets are acquired, additional expenditures are minor although a significant investment in color facilities and equipment is now underway. For these reasons, once a network achieves meaningful profitability, the "free cash flow" that can be used for other purposes is substantial despite modest depreciation charges. Both CBS and NBC have felt the pressures of excess cash generation, but ABC has not yet achieved substantial network profitability. The major capital requirement in the industry is for program inventories, but these generally liquidate within a year.

Assuming a good business year around 1970 and no change in the basic structure of the industry, a sharp increase in network profitability is anticipated from increasing demand on a fixed supply base. The 1965–1966 television season (September 1965 to September 1966) has witnessed a substantial increase in demand with the result that there is close to enough business to fill all three networks. This is reflected in generally better pric-

ing for the industry, much of which flows through to pretax income. Projected three network results for 1970 follow:

[In millions]

	Actual 1963	Actual 1964	Projected 1970
Net Time Revenues	$457	$479	$625
Sundry Revenues	35	38	50
Non-Program Revenues	492	517	675
Non-Program Expenses:			
Station Compensation	(202)	(214)	(270)
Technical & Transmission	(67)	(78)	(81)
S, G&A	(56)	(64)	(90)
Depreciation & Amortization	(8)	(8)	(9)
Total	(333)	(364)	(450)
Non-program Profit	159	153	225
Program Loss*	(103)	(93)	(75)
Pretax Profit	56	60	150
Program Revenue	346	409	[illegible]
Program Expense	(449)	(502)	(750)
Program Loss*	(103)	(93)	(75)

* These figures are in a different format than the previous table in order to facilitate projection. For further detail on the 1970 projection see Appendix D.

Total net revenues for the industry are expected to reach $1,350 million in 1970, up from $926 million in 1964, representing a 6.5% compound growth rate, well below the 9.0% average of recent years. However, the relatively fixed nature of non-program expenses combined with a reduction in program losses should permit network profits to reach $150 million, up from $60 million in 1964, or a 16.5% compound growth rate.

Any change in network compensation rates and payments to stations would likely be in favor of networks, and would represent additional pretax profit to the networks. As an indication of magnitude, [3109] a 5% reduction in compensation payments in 1964 would have meant an 18% ($11 million) increase in network profits. Also, any reduction in $40 million of cable charges by way of satellite transmission would accrue entirely to the networks.

[3110] ABC NETWORK

Despite anticipated continuance of ABC's coverage disparity and assuming an average ratings year, we estimate the network

will show earnings of $17 million pretax in 1970 as compared with a 1965 profit of $2 million. However, an understanding of ABC's basic industry position is required to evaluate these expectations.

ABC's position in network television is essentially defined by the fact that it is the third entry in a business where there are not enough station outlets to bring three network signals to all markets. ABC's live coverage is limited to 93% of the country, as compared to 99% for CBS and 98% for NBC. ABC does not reach certain smaller markets, and many markets are reached only on a "delayed basis" where programs are shown out of prime hours, with a significantly lower audience potential. Also, since ABC's affiliates are generally those that began operations last in a given market, they tend to have higher channel allocations, which frequently means poorer market coverage. ABC's lesser coverage is reflected in smaller program lineups and lower sales. In all, ABC's 1964 network billings were 62% those of CBS and 76% those of NBC, whereas programming and administrative expenses are roughly comparable. Profitability of the three networks is estimated as follows:

[3111] [In millions]

	1960	1961	1962	1963	1964
ABC	$3	$3	$3	$(5)	$(4)
CBS	24	20	24	41	41
NBC	7	2	10	20	23
	$34	$25	$37	$56	$60

These figures are estimates of results reported to the FCC. They are after arbitrary allocations of corporate overhead and may not be comparable to internal books. All estimates for ABC in this report are on this fully allocated basis.

ABC earnings since 1960 have been helped by an increase in live coverage to 93% from 88%, and competitive audience ratings in 1961, which countered the recession. In 1962, a ratings deterioration was offset by a strong recovery in the economy and in network demand. The network loss in 1963 was a combination of precipitously bad ratings, costs of the Kennedy assassination and non-recurring program losses. Continuing poor ratings and costs of election coverage resulted in a loss again in 1964.

ABC has a highly leveraged opportunity to prosper as advertiser demand increases over a fixed base of supply, since marginal income is highly profitable. ABC will continue to be vulnerable to changes in the economic climate or sharp reversals in ratings. *However, attainment of projected ABC network profits of $17 million in 1970 does not assume or require fully competitive ratings or solution of the basic coverage disparity.* [3112] By 1970, advertiser demand should be in very favorable balance to the supply of available time, which will reflect in far better industry pricing.

Since television networks sell circulation, the measurement of that circulation (ratings) has become an important factor in sales. Because of its limited facilities, ABC has historically been third in the evening national ratings, although wide variations have occurred:

Percent ABC evening ratings to competition (Mon–Sun 6–11 PM)

[October through April—by percent]

	1960–61	1961–62	1962–63	1963–64	1964–65
CBS	–9	–19	–30	–21	–3
NBC	+2	–21	–17	–8	–2

Source: A. C. Nielsen—NTI.

ABC made substantial progress in the 1960–61 season when it was in second place for the first time. However, 1961–62 showed a sharp decline, followed by almost disastrous ratings in 1962–63. Improvement occurred the following year and culminated in 1964–65 when ABC's audiences were only a fraction behind those of CBS and NBC. Ratings have declined in the current season and are now running 10%–15% behind those of the other networks in the evening. Because of smaller ABC coverage, any assumption of equal programming capability among the three networks means that ABC would be a modest third in ratings; with equal programming, ABC might capture 31% of the total prime time audience. Any assumption of equal ratings assumes superior programming capability [3113] on the part of ABC. In looking ahead to 1970, we expect ABC to have somewhat lower ratings than its competitors in nighttime audiences. As long as the company is within striking distance of the

second network, it should have no difficulty maintaining price in the favorable economic climate that will be working at that time. In any event, we have assumed that by 1970 ABC can realize about 30% of projected industry nighttime revenues, up from 28% in 1964.

The potentials for ABC in daytime are tremendous, both in terms of a better market share and the opportunity for higher prices relative to evening rates. ABC's third network entry into daytime service is reflected in the network's historic low Monday to Friday ratings, which are currently 60% behind CBS and 30% behind NBC. While CBS has increased its total domination of Monday to Friday daytime ratings, ABC has been closing the gap on NBC despite the strong habit factors in daytime viewing. Moreover, we believe that daytime is substantially underpriced relative to nighttime television on a cost-per-thousand basis. This appears to have begun to be recognized by many advertisers as the demand for daytime has been extremely strong this year. Reflecting both price increases and extended network programming hours, daytime revenues for the industry have grown nearly three times as rapidly as nighttime revenues in recent years. From 1965 to 1970, we expect they will grow twice as fast as nighttime revenues.

By 1970, we expect that ABC can achieve about 25% of daytime revenues, up from 20% in 1964. Combined with our estimated 30% of nighttime revenues, ABC would get about 28½% of total network [3114] revenues as compared with less than 26% in 1964. Expenses should be about 31½% of the combined total, with the result that ABC's margins will continue to be substantially lower than those of its competitors. However, as opposed to a $4 million loss in 1964 and a $2 million estimated profit in 1965, we believe that the ABC network can be earning approximately $17 million before taxes in 1970 on some $385 million of total net revenues. This would indicate pretax profit margins of about 4%–5%, with ABC getting about 11%–12% of total network profits. While these may appear to be modest objectives, they are realistic in terms of ABC's built-in coverage disadvantages and require only average programming success.

[3115] OWNED AND OPERATED STATION ECONOMICS

The basic economic forces of regulated competition and free market pricing apply to network affiliated stations as well as networks, and in addition the station is paid to take network programming. Therefore, an affiliated station's basic inventory is time, which has no cost and ties up no capital. The value of time varies directly in relation to the population within a market, since advertisers pay for the number of viewers reached. As a result, market profitability in terms of margins and absolute dollars tends to increase directly with size, especially where there are only three affiliated stations competing.

In 1952, the FCC drew up a nationwide assignment of 591 commercial VHF channels to correlate with population density and prevent signal conflict. Of these channels, 80% are already in use, with no more available in major and moderate sized markets. Remaining allocations are located in underpopulated areas which cannot economically support stations. Therefore, no new VHF competition can enter any meaningful market.

The nature of station competition is basically local in character, since signals are limited to an effective range of 50–75 miles. The limited nature of competition with a market is shown by the fact that only 8% of television markets have more than three stations, 28% are three station markets, and 64% are one or two station markets. Coverage factors within each market vary depending upon channel allocations, with higher [3116] channel frequencies often delivering poorer coverage, particularly in mountainous areas. In some cases, markets may be close enough to cause some signal overlap, which has a divisive effect on audiences. Programming is a meaningful competitive factor within each market. During most prime daytime and evening hours, stations will accept network feed as the most economic and desirable means of building audiences. Therefore, station prosperity is partly dependent upon the quality of network feed, over which it has no control. Station management functions are essentially selling (promoting the market and attracting business to the individual station) and programming when network feed is not available during the late afternoon and late evening. An additional intangible

factor bearing on competitive position is partly tied in with local ownership (such as newspapers) and partly a matter of how long the station has been in service.

Stations participate in national business through compensation payments from networks, which are made essentially for use of the station's access to a market. Also, network supplied programs attract much larger audiences which enables higher prices for commercials sold during program breaks.

FCC figures for the 15 O&Os, together with our estimate for 1970 are as follows:

[3117] [In millions]

	1960	1961	1962	1963	1964	Projected 1970
National/Regional Time Sales	$100	$103	$115	$132	$163	$273
Local Time Sales	31	30	38	42	48	84
	131	133	153	174	210	355
Commissions	(25)	(25)	(28)	(33)	(39)	(67)
	106	108	125	141	171	288
Network Compensation	30	33	36	35	37	44
Total Net Time Sales	136	141	161	176	208	332
Program & Other Revenues	10	8	9	8	8	10
Total Revenues	146	149	170	184	216	342
Expenses:						
Program	(42)	(44)	(50)	(56)	(66)	(105)
Technical	(15)	(15)	(15)	(16)	(18)	(21)
S, G&A	(24)	(25)	(27)	(30)	(33)	(48)
Deprec. & Amort.	(3)	(3)	(3)	(3)	(3)	(3)
Total	(84)	(87)	(95)	(105)	(120)	(177)
Pretax Profit	$62	$62	$75	$80	$96	$165
Profit Excl. Network Comp.	$32	$29	$39	$45	$59	$121

The projection for 1970 assumes identical units to the 15 O&Os in operation in 1964. For further detail on the 1970 projection see Appendix E.

O&O pretax profit margins in 1964 were 45% as compared with 30% for all other stations. This is because all 15 O&Os are in the eleven largest markets and management is probably better as well. Most station generated time sales are from national advertisers who choose to place commercials directly with

stations (spot), with the remaining income from local advertisers. Spot gives medium-sized advertisers major market television representation where network exposure might be too expensive, and is particularly useful for regional advertisers. National advertisers [3118] use spot to supplement network coverage, particularly in connection with new product introduction. For these reasons, spot has grown more quickly than network advertising, with major markets growing faster than smaller ones. However, the most dynamic potential for station operators is local advertising. Local television advertising may be a neglected area since it accounts for only 7% of total local advertising, whereas spot and network together account for 22% of total national advertising.

Network compensation payments, against which there is no offsetting expense, contributed 39% of total O&O profits in 1964, down from 48% in 1960. This reflects the rapid growth of spot and local business while compensation rose only modestly. Since the O&Os clear all network programs and hours programmed have not risen significantly, increase compensation is importantly related to rate increases. The O&O "operating profit margin" (excluding network compensation) rose from 27% in 1960 to 33% in 1964 and we expect it to reach 41% by 1970, as a result of continuing favorable demand imposed on limited supply.

Once a station's antenna and transmission facilities have been acquired, capital expenditures are very modest and rarely are as great as depreciation charges. Combined with limited inventory requirements and high profits, *stations generate tremendous "free cash" that can be utilized for other corporate purposes.*

[3119] ABC OWNED AND OPERATED STATIONS

We estimate that ABC's O&Os will earn $40 million pretax in 1970 as compared with an estimated 1965 profit of $20 million, despite continuation of daytime and late evening problems.

ABC's five owned stations reach 27% of the national audience through outlets in New York, Los Angeles, Chicago,

Detroit and San Francisco. They have generally had lower ratings than CBS and NBC competitors in these markets due to ABC's weak daytime network position and a late evening squeeze where they are caught between NBC's "Tonight Show" and CBS affiliates' "Late Show" movies. In our opinion, the late evening programming problem is unlikely to be completely resolved since it will be difficult to find a differentiated program format.

Historically, a major function of the ABC O&Os has been to finance network operations through generation of "free cash" and to compensate network advertisers for lesser ABC network coverage. ABC's total network card rates in its three top markets are 20% below those of CBS and 15% below that of NBC. ABC owned stations must bear this subsidy since independently owned affiliates must be compensated competitively. Only a moderate part of lesser O&O rates are due to smaller audiences, since ABC affiliates in other markets average card rates less than 5% lower than competition.

Since compensation payments made to the ABC O&O stations by the ABC network are lower than they would normally be for the reasons just discussed, profits of the five ABC O&Os are understated relative [3120] to those of CBS and NBC. This fact, combined with daytime and late evening problems, make ABC station profits roughly half as great as those of CBS and NBC, although all three station groups reach about the same percent of the national audience.

[In millions]

	1960	1961	1962	1963	1964
ABC	$13	$13	$17	$16	$18
CBS	26	25	29	32	39
NBC	23	24	29	32	39
Pretax Profit	$62	$62	$75	$80	$96

These figures are estimates of results reported to the FCC. They are after arbitrary allocations of corporate overhead and may not be comparable to corporate books.

With solution of ABC's network coverage problem not in prospect, station operations will continue to subsidize poor network coverage. In addition, we assume no basic resolution of

the late night programming problem and expect daytime rates to remain below those of competitors. However, the ABC O&Os should increase their share of total O&O revenues from about 24% in 1964 to over 27% in 1970 as a result of rapidly increasing demand for time in these markets. ABC's share of expenses should rise somewhat more moderately. As a result, the ABC O&Os should be able to earn about $40 million pretax or roughly 25% of total projected O&O pretax profits of $165 million for 1970, as opposed to $18 million pretax and 19% of the total in 1964.

[3121] MANAGEMENT

ABC's top management must be credited with the brilliant concept of utilizing the cash flow that had to be generated from theater dispositions under the terms of a Consent Decree to finance its network's rise to major competitive status. What is frequently forgotten is that the Dumont Network failed at least partly because it lacked the financial resources to support early losses in network television, while CBS and NBC had substantial earnings from other operations.

ABC is generally considered by the trade to have the most aggressive network sales organization, at least partly because it has the weakest product to sell. ABC has introduced some major programming innovations, partly dictated by its competitive position. Before 1956, CBS and NBC had simply extended the concepts of radio programming to television in the absence of competitive pressure. ABC accelerated the trend toward filmed series programming because its coverage problem did not allow it to reach a large portion of the country on a live basis, and film was readily transportable for delayed broadcasts. In addition, ABC invented "counter-programming", placing a completely unlike type of show in a time period against established shows in order to differentiate its programmining to establish audience. Particular emphasis was made to attract younger, metropolitan viewers since ABC's coverage handicap in rural areas was hopeless.

Any judgment of management capability in selecting new program series is purely subjective. CBS has developed a strong

programming [3122] staff which oversees the creative execution of shows it purchases for the network. Neither ABC nor NBC have developed this internal staff capability. On balance, ABC's programming organization is probably as good, if not better than NBC's, but both lag behind CBS.

From direct contact and discussion in the trade, it is our impression that there is a relatively strong, younger middle management executive tier at ABC at both the sales and programming levels which might function more effectively if given a freer hand in operating decisions.

Contacts in the industry have indicated that theater management is relatively weak. This probably reflects the fact that this area is given little top management attention as its major function historically has been to provide cash flow for other parts of the business.

On balance, the ABC management has probably done a better job than is generally recognized within the framework of the limitations imposed upon it by its industry position.

[3123]

APPENDIX A

UHF

The UHF history reflects a ten-year FCC attempt to extend broader television service in smaller markets and promote more competition among stations and networks. Despite continuous regulatory incubation, UHF stations have been conspicuously unsuccessful in the aggregate and no single UHF station has ever earned as much as $300,000 before taxes.

[Dollars in millions]

	1960	1961	1962	1963	1964
UHF Revenues	$30.8	$31.4	$34.4	$30.1	$44.3
UHF Pretax Profit (Loss)	0.3	(0.6)	0.9	0.2	2.7
Number UHF Stations in Operation	76	81	83	86	92
Percent UHF Stations Profitable	50	40	57	58	68

Source: FCC.

We expect the factors responsible for UHF failure to continue for the next five years. UHF is not competitive with VHF principally because UHF signals can be adequately received

only 60% as far as VHF signals. The smaller UHF audience potential is reflected in lower prices comparable to VHF stations, but program costs are the same and operating costs somewhat higher. Therefore, UHF economics in a mixed market are extremely unpromising. Twelve small all UHF markets are hangovers from an unsuccessful FCC experiment in extension of the UHF band. A technical breakthrough is required to make UHF signals competitive in coverage with VHF.

The ability to receive UHF signals does not in itself generate audiences. Audiences are attracted through competitive or superior [3124] programming to that available through network affiliation. Without support of network feed to deliver viewers and draw advertiser support, very few stations, UHF or VHF, can operate profitably. Buildup of UHF equipped sets is proceeding under the All Channel Receiver Bill, effective in April, 1964, and conversion, stimulated by heavy color set sales, will be reasonably rapid. At present, 21% of the national audience can receive UHF signals.

New UHF outlets could have favorable implications for the networks. The establishment of additional stations in medium sized and large markets could give networks a wider choice of affiliation alternatives, with the possibility of substantially reduced compensation payments. Network owned station earnings are somewhat protected since about 60% of profits come from New York and Los Angeles. These markets already have sufficient diversity of programming from a total of 13 VHF and three UHF commercial stations, and are not vulnerable to new competition. If the economics of UHF broadcasting improve, the networks could build or buy stations in two major markets. Since affiliation is no problem for the networks, UHF outlets could be profit contributors if technical and audience problems are overcome.

[3125]

Appendix B

PAY TELEVISION

The success of pay television could end free television's visual entertainment monopoly in the home and could severely hurt both networks and stations. However, we do not believe pay television will compete effectively in the foreseeable future.

The fundamental problem facing pay television is a classic "chicken and egg" situation. Expensive programming is needed to attract audiences, while large audiences are required to finance programming. Capital and financing costs are additional significant overhead factors. For cable systems, the expense of installing facilities is enormous; it is unsupportable if the density of subscribers is low. Over-the-air transmission could utilize existing stations although the cost of a home decoder and collection system could be substantial, especially if the public will not pay an installation fee. Free television had similar problems in the late forties and early fifties, but network losses were supported by profits from radio, television stations and set manufacturing. Financing has been provided by the public, which bought $23 billion worth of receivers through 1963, while only $1–$2 billion was invested by station operators. CBS alone put $50 million in network television before the network turned profitable in 1953; in that period, there was no in-the-home competition as there is now for pay television.

The enormous theoretical potential of pay television is based on the fact that even a moderate charge paid by a fraction of 52 million television [3126] homes would generate tremendous revenues. We strongly believe that to be economic, pay television must appeal to the same mass audiences now reached by free television. Many proponents of pay television have publicly spoken of programming for "special interest" groups, but we believe that appeal to minority audiences will not generate sufficient income to make pay television economic, especially in the early stages. With a heavy operating overhead, the medium must be supported by mass circulation.

The continuing prosperity of free television and the passage of time are working against pay television. As sponsorship increases, free television has been able to pay more for talent and programming. A classic example of this is the National Football League television rights which sold for $14.1 million per season for 1964 as compared with $4.7 million per season for 1962. While pay television could easily afford $14.1 million with a large established circulation, such a sum would represent an uneconomic program investment for a regional medium just getting started.

Other outlets may usurp programming that has historically been considered ideal for pay television. For example, closed circuit theater pay television may be the ultimate medium for major sporting events. Championship boxing has successfully used a theater hook-up, and the "Indianapolis 500" has been successfully shown in theaters. Theatre telecast of the Giant-Bears NFL championship game was a success. Entertainment specials, such as the recent presentation of the Beatles, could become another market. Home videotape recorders could eliminate the specialty programming audience. [3127] Cultural and other subjects might be provided in pre-recorded videotapes which could be rented for home viewing.

The political obstacles to pay television are immense. Popular emotional feeling against paying for what is now free could become an active political force. Pay television operators might be forced to deal piecemeal for local cable rights and taxes, which could greatly complicate market coverage. Lobbying groups are well financed by competing parties such as theatre owners, and there is a huge vested proprietary interest in existing television franchises (not the least of which is Congressional television ownership). Should pay television come closer to a meaningful reality, national advertisers might actively oppose the potential loss of a primary selling medium. Also, it is quite possible that pay television will be placed under authority of the FCC, regardless of cable or over-the-air transmission, which would require the pay television owner to operate under a regulated franchise. The FCC has historically protected the interests of free television. Given the Commission's ten year policy of extending television service to more people, any attempt which could narrow audience potential by charging tolls might be actively contested.

There have been two experimental pay television systems. The Paramount Telemeter venture in Toronto (cable transmission) which reached fewer than 5,000 homes has been culminated after an unprofitable and, in our opinion, unsucccessful history even in terms of expectations. The [3128] RKO-Zenith venture in Hartford (UHF transmission) has been quite unprofitable in its experimental stage but application has been made to the FCC for expansion of the system. Subscription

Television (TV) in California was the first full scale attempt at profit making pay television. We believe it would have failed even if a referendum had not legislated it out of business in its infancy.

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[3129]

Appendix C

National advertising expenditures

[Dollars in millions]

	1960	1961	1962	1963	1964
Newspapers	$836	$802	$782	$765	$823
Magazines	941	924	973	1,034	1,108
Network TV	783	782	976	1,025	1,109
Spot TV	528	533	611	679	750
Radio	265	261	275	294	298
Direct Mail	1,830	1,876	1,933	2,068	2,171
Business Papers	609	578	597	615	623
Outdoor	137	122	115	115	117
Miscellaneous	1,367	1,376	1,399	1,509	1,610
Total National Advertising	$7,296	$7,254	$7,661	$8,124	$8,609
Percent Network TV of Total	10.7	10.8	12.7	12.6	12.9
Percent Spot TV of total	7.2	7.3	8.0	8.4	8.7
Percent TV of Total	17.9	18.1	20.7	21.0	21.6

Total advertising expenditures

[Dollars in millions]

	1960	1961	1962	1963	1964
Newspapers	$3,703	$3,623	$3,681	$3,804	$4,069
Magazines	941	924	973	1,034	1,108
Network TV	783	782	976	1,025	1,109
Spot TV	528	533	611	679	750
Local TV	279	270	311	328	378
Radio	692	663	736	789	830
Direct Mail	1,830	1,876	1,933	2,068	2,171
Business Papers	609	578	597	615	623
Outdoor	203	180	171	171	175
Miscellaneous	2,364	2,396	2,392	2,574	2,768
Total Advertising	$11,932	$11,845	$12,381	$13,107	$13,981
Percent Network TV of total	6.6	6.6	7.9	7.8	7.9
Percent Spot TV of total	4.4	4.5	4.9	5.2	5.4
Percent Local TV of total	2.3	2.3	2.5	2.5	2.7
Percent TV of Total	13.3	13.4	15.3	15.5	16.0

Television figures for 1960 through 1961 and 1962 through 1964 are not completely comparable.
Source: Printers' Ink.

[3135] [Federal Communications Commission Exhibit No. J-239; presented by Justice Department]

Ford Motor Co.	$35,810,000	Vehicles.
General Motors Defense Research Labs.	21,304,000	Study Program.
Equitable Life Ins. Co.	5,039,000	Insurance.
Chrysler Corp.	4,790,000	Lease & Purchase of Motor Vehicles.
General Electric Co.	4,709,000	Relays, Capacitors, Semiconductors, Tungsten; Multiplex Equipment, Tubes, Transformers, Motors, Lead Wire, Silicone Rubber Components.
Radio Engineering Labs.	2,996,000	Tropo Radio Equipment.
E. I. DuPont	2,964,000	Chemicals, Paint, Nylon, Teflon, Rubber Compounds.
Doyle Dane & Bernbach	2,734,000	Advertising.
International Harvester Co.	2,450,000	Engines.
Bache & Co., Inc.	2,341,000	Copper.
Needham Harper & Steers, Inc.	2,228,000	Advertising.
Phelps Dodge Copper Products Corp.	2,215,000	Copper.
Raytheon Co.	1,779,000	Telephone Multiplex Equipment, Tubes, Microwave Tubes.
Anaconda	1,749,000	Copper and Brass.
N.Y. Telephone Co.	1,681,000	Telephone Service, Leased Lines, and TWX.
Western Electric Co.	1,644,000	Telephone Parts and Misc. Electronic Equipment, Royalties.
Noranda Sales (Canada)	1,631,000	Copper.
Adams Russell	1,446,000	Microwave Antennas and Amplifiers.
Armco Steel Corp	1,268,000	Aluminized Steel Sheets.
Cross & Brown	1,232,000	Office Rent.
Teletype Corp.	1,218,000	Teletype Equipment.
Fairchild Camera & Instrument Co.	1,200,000	Technical Data and Licenses.
Foundation Co. of Canada, Ltd.	1,199,000	Construction Work.
Gulf Oil Corp.	1,197,000	Petroleum Products.
Hewlett Packard Co.	1,134,000	Electronic Test Instruments.
C. P. Clare	1,120,000	Relays.
American Airlines, Inc.	1,114,000	Airline Services.
United States Steel Corp.	1,087,000	Sheet Steel Products.
Grumman Aircraft Engineering	1,039,000	Aircraft.
Texas Instruments, Inc.	1,044,000	Semiconductors.
International Business Machines Corp.	1,043,000	Rental of Computers & Computer Service.
Gerald Metals, Inc.	984,000	Copper.
Simplex Wire & Cable Co.	965,000	Wire Drawing Machinery.
Watkins Johnson Co.	938,000	Microwave Receivers.
American Motors	896,000	Motor Vehicles.
American Telephone & Telegraph Co.	799,000	Leased Lines.
Century Electric Co.	763,000	Electric Motors.
Sewitch Leon & Sons	752,000	General Construction.
Bethlehem Steel Corp.	735,000	Steel Sheet Products.
Wagner Electric Corp.	696,000	Electric Motors.
Texaco, Inc.	683,000	Petroleum Products.
Youngstown Sheet & Tube	672,000	Steel Sheet Products.
[3137] SEL Rex Corp.	661,000	Gold Plating Solutions.
Revere Copper & Brass	651,000	Copper & Brass.
Sprague Electric Co.	631,000	Capacitors.
Corning Glass Works	627,000	TV Picture tube bulbs, Delay Lines, & Glass Tube Parts.
Kankakee Foundry	620,000	Iron Castings.
General Telephone & Electronics	608,000	Telephone Switching Equipment.
Keen Foundary	581,000	Iron Castings.
Wells Mfg. Co.	575,000	Iron Castings.
Amp, Inc.	549,000	Connectors.
Jefferson Electric Co.	545,000	Transformers.

West, Weir & Bartel, Inc	$543,000	Advertising.
American Smelting & Refining Co	518,000	Metals & Copper.
William Brand Rex Div	514,000	PVC Wire.
Davis Polk Wardwell Sunderland & Kiendl.	509,000	Legal Services & Disbursements.
Broad & Beaver Realty Co	500,000	Rental of Office Space.
Montex Electronics	497,000	Electronic Test Equipment.
Andrew Corp	496,000	Microwave Waveguides & Antennas.
Malco Tool and Mfg. Co	493,000	Tools & Dies.
More Business Forms, Inc	492,000	Business Forms.
[3138] RCA	381,000	Radar Video Recorders & Technical Data & Licenses.
General Railway Sign Co	377,000	Railway Signalling Equipment.
Varian Associates	375,000	Microwave Parts.
Litton Industries, Inc	365,000	Electronic Components.
Triangle Conduit & Cable Co	355,000	Copper Rolling.
American Graded Sand Co	355,000	Grit.
Cook Electric Co	353,000	Telephone Parts.
Eitel McCullough	352,000	Electronic Parts—Klystrons.
Arthur Anderson & Co	350,000	Auditing Fees and Disbursements.
Atlantic Aviation Corp	347,000	Aircraft Equipment.
Jerrold Electronics	342,000	Microwave Equipment.
Communications Electronics Prod. Co	332,000	Radio Receivers.
American Abrasive Co	332,000	Grit.
Englehard Industries, Inc	330,000	Contracts, Platinum, & Gold Palladium Alloy.
Turner Metals	329,000	Non-Ferrous Metals.
Carpenter Steel Co	324,000	Tool Steel.
Byron Jackson Tools, Inc	323,000	Tools.
Airtron, Inc	323,000	Microwave Equipment.
Lake City Foundry	320,000	Iron Castings.
Whitney Blake Co	316,000	Insulated Wire.
Baso Products Div. of Penn Controls, Inc.	313,000	Gas Regulators & Valves.
O. J. Gonzer	311,000	Contract Manpower Services.
H. Muehlstein	309,000	Plastic Compounds.
[3139] Continental Aviation	307,000	Microwave Cavities.
Phillips Products Co	305,000	Styrene & Acrylic Plastic Refractors.
Caterpillar Tractor	304,000	Tractor Spare Parts.
Copperweld Steel Co	304,000	Copper Tubing.
Garner Glass Co	304,000	Glass Parts.
Wilcox	300,000	DME Beacons, DME & IFF Piece Parts.
Dormeyer Industries	300,000	Coils & Transformers.
Trans American Electronics International.	299,000	Radio Instruments.
Artag Plastics	296,000	Plastic Molded Parts.
Applied Technology Inc	294,000	Electronic Radio Receivers.
Monsanto Chemical Co	293,000	Vinyl Resin and Compounds and other Chemicals.
Northern Radio Co., Inc	293,000	Communication Equipment.
Metal Traders	292,000	Copper.
Lenkurt Electric Co., Inc	288,000	Tubes and Tone Generators.
SBD Systems	287,000	Power Supplies.
Wisconsin Motor Corp	286,000	Gasoline Engines.
U.S. Electrical Motors, Inc	284,000	Electric Motors.
Aerovox Corp	281,000	Capacitors.
Kahle Engineering Co	279,000	Machinery & Accessories.
[3140] Screwmatic	276,000	Screw Machine Parts.
Reliance Electric & Engineering	275,000	Electric Motors.
A. O. Smith Corp	273,000	Electric Motors.
Precise Metal Parts	270,000	Mechanical Parts & Machinery.
Pan American Airlines	265,000	Airline Services.
Hallmark Electrical	264,000	Transformers and Switchboards.

Briggs and Stratton Corp	$263,000	Gasoline Engines.
Acme Die Casting	262,000	Die Castings.
Wheeling Steel Corp	262,000	Sheet Steel Products.
Tektronix, Inc	262,000	Electronic Test Equipment.
Federated Purchases, Inc	260,000	Misc. Electrical Supplies.
Cramer Esco	255,000	Misc. Electrical Components.
M & D Co	254,000	Screw Machine Parts.
Wandel & Golterman	253,000	Special Electronic Test Equipment.
Goodyear Tire & Rubber Co	252,000	Tires.
Firestone Tire Co	250,000	Tires.
Spectrol Electronics Corp	250,000	Potentiometers.
Quaker Alloy Casting Co	249,000	Castings.
Collins Radio	249,000	Receivers & Multiplex Equipment.
Industrial Microwave Corp	249,000	Microwave Equipment.
[3141] H. R. B. Singer, Inc	247,000	Radio Receivers.
Lear Siegler, Inc	245,000	Radio Receivers.
Phillip Brothers Chemical, Inc	245,000	Plastic Compounds.
Graybar Electric Co	245,000	Lamps and Misc. Electrical Components.
Industrial Circuits Corp	244,000	Printed Circuit Boards.
Plastic & Rubber Products Co	243,000	Rubber Parts.
Lamtex, Inc	240,000	Fiberglass.
Baldwin Electronics, Inc	239,000	Encoders.
Mansfield Tire Co	239,000	Tires.
Victory Engineering Corp	238,000	Varistors and Themistors.
Vector Design	228,000	Contract Manpower Service.
Standard Kollsman Inc., Inc	228,000	Tuners.
Paper Manufacturers Co	226,000	Communication Papers.
Kennecott Copper Co	216,000	Copper Products.
Powell Bros	215,000	Steel Beam Towers.
Marine Acoustical Service	215,000	Rental of Cable-Laying Vessel.
Union Carbide Corp	214,000	Silicone Rubber and Polyethylene.
[3142] Bristol Co	214,000	Telemetry Services.
Lau Blowers Co	211,000	Blower Wheels.
Kennemetal, Inc	211,000	Carbide Tools.
Karlon Mfg. Co	211,000	High Speed Stampings.
Glagola M and Sons	206,000	General Construction.
John A. Manning Paper Co	206,000	Cable paper.
Sperry Electric Tube Division	205,000	Electron Tubes.
Pacific Moulded Products Co	205,000	Plastic Molded Parts.
Electronic Devices, Inc	206,000	Semiconductors.
Rotron Mfg. Co., Inc	204,000	Blowers & Fans.
Shell Oil Co	204,000	Petroleum Products.
Control Data	203,000	Rental of Computers.
Allen Bradley Co	202,000	Resistors & Motor Controls.
Wayne George Corp	201,000	Encoders.
Electronic Manufacturing Co	200,000	Lead Wires & Small Metal Stamped Parts.
Reliable Electric Co	198,000	Motors and Pole Line Accessories.
Alltech Associates	197,000	Contract Manpower Service.
J. S. Ballantine Co	196,000	Antenna Masts & Bases.
McLean Packaging Co	196,000	Corrugated Cartons.
Ducommun Metals	193,000	Metals.
[3143] Air Transport Mfg. Co	193,000	Sheet Metal Assemblies.
Dole Valve Co	193,000	Air and Zone Valves.
Wabash Magnetics	192,000	Coils.
Quality Screw	191,000	Screw Machine Products.
Controls Co. of America Motor Div	188,000	Switches.
N.J. O. Supply	187,000	Office Supplies.
Computer Control Corp	187,000	Digital Systems.
Hawaiian Telephone Co	187,000	Telephone Service & Leased Lines.
Time Electronic Sales	186,000	Connectors.
Gavis Electric Co	186,000	Wire Spooling & Handling Equipment.
Hill Chase and Co., Inc	185,000	Steel Products.
Goodall	185,000	Mylar and Poly Caps.

King Mfg. Co	$185,000	Stamping and Plating of Parts.
Dale Electronics, Inc	184,000	Electrical Components.
Hughes Treiller Mfg. Co	184,000	Dip Brazing.
Farnsworth Press	183,000	Printing.
Monitor Industries	182,000	Plastic Parts, Molds & Dies.
Maid O Mist Corp	182,000	Air Valves.
Xerox Corp	182,000	Rental of Equipment.
477 Madison Ave., Inc	181,000	Office Rent.
[3144] Kappe Electronic Dist	180,000	Electrical Supply.
Admiral Controls	179,000	Screw Machine Parts.
Crouse Hinds, Inc	179,000	Airport Lighting Conducts.
Art Wire & Stamping, Inc	176,000	Precious Metal Wire.
Sylvania Electric Products Co	176,000	Diodes, Transistors, Tubes, & Printed Circuit Boards.
Sagertown Components, Inc	175,000	Microwave Parts.
Mathias Klein & Sons, Inc	173,000	Tools.
Volt Technical Co	172,000	Manuals.
Thompson Chemical	172,000	Plasticizers, PVC Resins
Newark Metal Products, Inc	171,000	Stamped Metal Parts.
R & R Tool & Die Corp	170,000	Tools and Dies.
Hughes Aircraft Co	170,000	Radar Equipment.
Minnesota Mining & Mfg. Co	170,000	Instrumentation Tape.
B. F. Goodrich Chemical Co	168,000	Vinyl Compounds.
U.S. Postmaster (NYC)	168,000	Postage.
Industrial Engr. & Equipment Co	166,000	Electric Heating Elements.
Coors Porcelain Co	166,000	Ceramic Parts & Bonding.
Jones & Laughlin Steel Corp	166,000	Steel Products.
Dickten & Masch Mfg	165,000	Plastic Molded Parts.
Southern California Stationers	165,000	Office Supplies.
Custom Extrusion, Inc	165,000	Extrusions.
A. B. Chance Co	165,000	Pipeline Accessories.
Alu Bra Foundry	164,000	Brass Castings.
[3145] Lorge Engr	163,000	Tools-Turret.
Pall Corp	162,000	Heat Exchangers.
American Metal Climax, Inc	162,000	Copper.
Abel Manufacturing Co	162,000	Metal-Stamped Parts.
Reprostat Corp	162,000	Reproduction of Drawings.
Scientific Atlanta Co	161,000	Pedestals.
Cornell Dubilier Electric Corp	160,000	Noise Filters.
Progress Electronics	160,000	Connectors.
Aaron Ferrer & Sons	160,000	Aluminum die cast ingot.
LaSalle Steel	159,000	Steel.
Superior Electronics Corp	159,000	TV Focus Guns.
Neilson Inc	159,000	Advertising.
Lorain Products	158,000	Battery chargers, Tone & Ring. Gen.
Laribee Wire	158,000	Copper Wire.
John Royle & Sons	157,000	Machine Tools.
Axel Electronics, Inc	156,000	Transformers.
Moss Engineering Co	155,000	Machine Parts.
Communication Associates, Inc	153,000	Radio Transmitters.
Marengo Foundry	153,000	Iron Castings.
Constantine Engineering Labs	152,000	Power Suppliers.
Rotron Mfg. Co	152,000	Blower Fans.
Phillips Chemical	151,000	Synthetic Rubber.
United Air Lines	151,000	Airline Services.
[3146] Zero Mfg. Co	151,000	Aluminum Products.
Wems Inc	150,000	Welded Modules.
Williams Mfg. Corp	150,000	Punch Press Parts.
Del Penn Steel Sales Corp	150,000	Steel Products.
Metals & Controls, Inc	150,000	Metal Alloys.
Atlas Electronics, Inc	147,000	Distributor Items.
Plymouth Cordage	146,000	Rope.
Husky Prods., Inc	146,000	Cable Towers.

Syncro Machine Co	$146,000	Wire Drawing Equipment.
Whiting Screw	145,000	Screw Machine Parts.
Reading Tube Corp	145,000	Copper Tubing.
Sierra Electric	144,000	Molded Plastic Parts.
Texas U.S. Chemical	144,000	Synthetic Rubber.
International Silver	144,000	Silver Alloys, Brass.
Quality Tool & Die	142,000	Machine Shop Work.
Cole Steel Equipment Co	142,000	Office Equipment.
The Singer Co	142,000	Plastic Molded Parts.
Waveline, Inc	142,000	Microwave Wave Guides.
Crane Packing Co	141,000	Packing and Seals.
Firestone Engr	140,000	Screw Machine Products.
Handy Harmon	140,000	Silver Plating Solutions.
National Lead Co	137,000	Chemicals.
Long Island Lighting Co	137,000	Power.
[3147] American Electronic Labs	136,000	Cathode Ray Tube Equipment.
Marsden Offset Co	136,000	Publications.
Master Specialties Co	136,000	Switches.
Roper Plastics	135,000	Molded Nylon.
The National Telephone Supply Co	135,000	Micropress Sleeves.
Broyles, Allebugh & Davis	135,000	Advertising.
EMC Plastics Co	135,000	Plastic Molded Parts.
Arnold Engineering	135,000	Magnets.
Trylon Inc	134,000	Microwave Towers and Transmission Towers.
Burnup & Sons	134,000	General Construction.
Warren Mfg. Co	134,000	Battery Charges and Ring Gen.
Bulova Watch Co	134,000	Filters.
Am. Meter Co	134,000	Measuring & Regulating Instruments and Parts.
Aurora Metal	133,000	Brass Castings.
Electro Refractories & Abrasive	133,000	Grit.
Airpax Electronics, Inc	133,000	Circuit Breakers & Magnetic Amplifiers.
North Shore Instrument Corp	132,000	Instruments, Gears.
Erie Technological Products	132,000	Technological Products.
Transformer Mfg., Inc	132,000	Transformers.
Max Lor	130,000	Machined Parts.
[3148] Unitec Corp	130,000	Drafting Supplies & Surveying Equipment.
York Astro	130,000	Electronic Shelters.
Kennerly Press	129,000	Printing.
Masonware	129,000	Spools.
Republic Steel Corp	129,000	Sheet Steel Products.
Canada Packers, Ltd	129,000	Meat and Food Stuffs.
Cinch Mfg. Co	129,000	Connectors.
Cole Engr	128,000	Bronze Castings.
Oak Mfg. Co	128,000	Tuners.
Russell Burdsall & Ward	128,000	Fasteners.
Heyman Mfg. Co	128,000	Brass Blades, Contacts.
American Cyanamid	128,000	Chemicals.
George A. Murray Co. Inc	127,000	Construction.
Atlantic Tubing	127,000	Copper.
Allied Controls	126,000	Controls.
Micro State Electronics Corp	126,000	Tunnel Diode Amplifiers Limiters.

[3220] [Federal Communications Commission Exhibit No. J–241; presented by Justice Department]

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ABC INTERNATIONAL TELEVISION, INC.,

New York, N.Y., February 4, 1966.

Gen. JAMES R. MCNITT,
ITT World Communications
67 Broad Street, New York, N.Y.

DEAR GEN. MCNITT: With reference to our telephone conversation today, this will confirm that I would like to have you meet with Roone Arledge, President of ABC Sports Programs, Inc., on Friday, February 11, at your convenience.

Confidentially, the purpose of this meeting would be to determine the possibilities of using portable ground station equipment in Mexico at the time of the 1968 Summer Olympics. A call to my office to confirm time and place will be relayed to Mr. Arledge.

If I am not back in New York in time for your Friday meeting with Mr. Arledge, I would like to arrange a meeting with you upon my return to discuss the usage of portable ground station equipment in Colombia. As I indicated to you, we were advised while in Colombia that negotiations regarding the extension of the Panama marine cable to Barranquilla had collapsed. No reason was given. It was because of this that we felt it desirable to pursue the portable ground station possibility as a device whereby, through our association, you would still be able to maintain a position relative to the expansion of communication facilities with Colombia.

I must say that the arrangements that we have worked out with Minister Riesco would appear to provide an excellent opportunity to become further entrenched in the communications field in Colombia.

Sincerely,

DONALD W. COYLE.

278-719—67——48

[3221] [Federal Communications Commission Exhibit No. J–242; presented by Justice Department]

ABC International Television, Inc.,
New York, N.Y., February 16, 1966.

Gen. James R. McNitt,
ITT World Communications,
67 Broad Street,
New York, N.Y.

Dear Gen. McNitt: Pursuing your suggestion as put forth at our luncheon of December 17 and with reference to my letter of February 4, we would appreciate a quotation from your company as to what it would cost to install and lease a portable ground station in the environs of Bogota, Colombia, capable of transmitting a television signal to the United States.

Would you please quote on the basis of two weeks, one month, and two months' actual usage. The period involved would be June-July 1966.

We feel certain you realize the significance of these transmissions. Obviously, ITT could enjoy considerable benefits by making this project possible. Your answer will be appreciated before the end of February.

With best wishes.

Sincerely,

Donald W. Coyle.

* * * * *

[3227] [Federal Communications Commission Exhibit No. J–247; presented by Justice Department]

May 4, 1966.

Mr. Donald W. Coyle,
President, ABC International Television, Inc.,
1330 Avenue of the Americas, New York, N.Y.

Dear Don: As I mentioned to you over the telephone, I am transmitting herewith copies of correspondence with respect to the possibility of TV activity in Angola and Mozambique.

May I suggest that your further activity in this field be coordinated through our European Headquarters and more par-

ticularly with Tim Dunleavy, and Tony Fernandes who heads up our operations in Lisbon.

In view of the fact that there may be a public relations problem it may be wise for any acquisitions to be made through our Portuguese company, or a subsidiary. This is important also because we would hope to get a tie in with the television receivers.

The latest information we have is that AID guarantees for convertibility, expropriation and war risk are available to Angola and Mozambique.

Best regards,

Sincerely,

HART PERRY.

[3228] APRIL 25, 1966.

Memorandum to Mr. Perry.

HART: This is the Mozambique-Angola story.

I would recommend that we work through Tony and consider even that any acquisitions we make be through our Portuguese company since this will tend to focalize any public relations into that area as a local decision of a Portugese Company.

H. S. GENEEN.

[3229] Re: Specific risk AID guarantees (convertibility, expropriation and war risk) are available for Angola and Mozambique.

To: Mr. Perry.

This is an on again off again situation and AID reopened these 2 countries three days ago.

LCH.

[3230] APRIL 15, 1966.

To: Mr. Perry.

HART: Can we get AID guarantees on investments made ir Angola and Mozambique?

H. S. GENEEN.

[3231] [Federal Communications Commission Exhibit No. J-248; presented by Justice Department]

STANDARD TELEPHONES & CABLES, LTD.,
London, April 5, 1966.

Mr. H. S. GENEEN,
President, International Telephone & Telegraph Corpn., 320 Park Avenue, New York, N.Y., U.S.A.

DEAR MR. GENEEN: Confirming our telephone conversation relative to ABC's opportunity in Africa, I feel there is a good opportunity immediately for ABC to erect and have a programming contract for TV stations in Lourenco Marques and Luanda. As both of these are in Portuguese territory, we are not sure how far the Portuguese company's franchise extends, but I am sure that if we got approval of the local officials and then attempted to work with the Portuguese TV authorities in Lisbon, we would be in a good negotiating position.

Should we be able to sponsor or cause the TV stations to be erected in these two places, there is a possibility that the local authorities would give us a monopoly on TV sets for 3 to 5 years. These sets could be made by Tony Fernandes in Lisbon.

In South Africa it is very possible that TV may be introduced in late 1968. We are quite friendly with the Chairman and Managing Director of the South African Broadcasting Company. He may be interested in working with ABC as a consultant and to furnish programmes, or possibly in the operating area.

I am sure that the South African Broadcasting Company is sophisticated enough that I would be unable to handle any negotiations for them, but should ABC be interested, we could see that they received maximum consideration in South Africa.

Yours sincerely,

[3232] APRIL 7, 1966.

To: Dunleavy Intel Brussels.
From: Geneen.

TIM: Rex has got some interesting ideas about TV stations in Luanda, Angola, and Lourenco Marquis, Mozambique.

Would you undertake to get him together with Tony Fernandez to figure out the best approach to the problems of obtaining minority positions and contracts to supply programs? Also if they are interested, what we can do to help with the construction, financing, etc., of the physical facilities. As apart from the broadcasting end of this, this would open the market for television receivers which I think Tony would be in a preferred position to supply from Portugal. Obviously this will require governmental approval and harmonious intergration with the various bureaus in Lisbon as well as the local situation. This is Rex's idea but I think it is going to need implementation from both ends and I would appreciate your undertaking a review of the problem and letting us have a prompt report on what the prospects are and how we should go about it. In addition check out with Tony the possibility of other locations is they are desirable. Also suggest Rex check into the broadcasting situation in Tunis on his trip this week.

GENEEN.

[3233]

APRIL 8, 1966.

To: Mr. H. S. Geneen—Intelco NY
From: Dunleavy ITTE Brussels

Re your 4284D on TV stations in Angola and Mozambique, I talked to Tony Fernandez and Tony confirms that this is the opportune time to talk with the Government on the possibly of a participation in two stations in Angola; namely, Luanda and Nova Lisboa and Lourenco Marques and Beira in Mozambique. He is also thinking about a station in Portuguese Guinea.

Tony is preparing a complete program that he plans to mail direct to you on Monday with copies to Grey and myself. In addition, we are planning to have Rex and Tony get together next week in Lisbon to work the details out and possibly go on to Angola and Mozambique if necessary. In our talks we covered construction, financing, and Tony has some ideas on the manufacture and distribution of TV receivers and is putting all this into the letter mentioned above.

Contacted Grey and he plans to review broadcasting in Tunis as you suggested.

Regards,

DUNLEAVY.

[3234] [Federal Communications Exhibit No. J-249; presented by Justice Department]

SYSTEM CONFIDENTIAL

STANDARD ELECTRICA S.A.K.E.,
April 10th, 1966.

Mr. F. J. DUNLEAVY,
President, ITT Europe, Inc.,
11, Boulevard de l'Empereur, Brussels 1, Belgium

DEAR MR. DUNLEAVY: This is in reference to our telephone conversation last Friday, 8th, concerning the possibility of setting up television broadcasting in the Portuguese Territories of Africa. This matter was discussed briefly during the visit made by Mr. Rex Grey and I to Angola and Mozambique, at the end of last February.

As you are aware, the television broadcasting in metropolitan Portugal is handled, on a concession basis, by "Radio Televisão Portuguesa", a joint stock company owned partially by the State but operating under a close government control. R.T.P. also has the rights for the concession to operate in all other Portuguese Territories but, so far, has not used these rights. I therefore felt that I should discuss with the President of R.T.P. (a personal friend of ours, Dr. Luis de Ataíde) the prospects of establishing television in Angola and Mozambique and find out the views and the intentions of R.T.P. in this area. For this purpose, Luis Pedreira (our General Counsel) and I had a long conversation with Dr. Luis de Ataíde, yesterday morning, and the outcome of our discussions, together with my views on the subject, are summarized below.

> There is a great interest, from the local people and the local government standpoints, in setting-up television broadcasting services in three or four towns in Angola (Luanda, Lobito-Benguela, Nova Lisboa, and possibly Sá da Bandeira) and in two or three towns in Mosambique (Lourenço Marques, Beira, and possibly Nampula).
>
> So far, the economic studies made by R.T.P. have shown that it is not possible to operate television sta-

tions in these towns, without a subsidy from the government, because the estimated revenue resulting from commercial advertising and from licenses paid by owners of TV sets is considered insufficient to cover the operating expenses.

[3235] Just to give an order of magnitude of the figures involved, R.T.P. estimate that a TV station as, for instance, in Lourenço Marques, will require an initial investment of about Dollars 500,000 and will have yearly operating expenses of the same order.

The attitude of the central government in Lisbon and of the local governments in Angola and Mozambique has been against granting a subsidy for TV broadcasting and this attitude is likely to be maintained.

R.T.P. is willing to relinquish their concession rights in Angola and Mozambique, so that these rights can be passed on to other organizations. Local companies could therefore be formed in Angola and Mozambique and it seems logical that the ownership of such companies could be shared by (a) the local government, (b) local radio broadcasting organizations, (c) R.T.P., (d) one or more commercial organizations such as ourselves, and (e) local interests.

The President of R.T.P. is of the opinion that both the central and the local governments would prefer that any ITT participation in the ownership of such companies were made through a Portuguese company such as SE Lisbon.

As far as we know, no one has yet thought of tying-up the concession for a TV broadcasting service with some kind of exclusive rights for the sale of TV sets. I believe however that this could be obtained indirectly by banning or very heavily taxing the importation of foreign made sets into Angola and Mozambique. On the other hand, sets made in Portugal would be imported without duties. At present, only our company is making TV sets in Portugal; Grundig has been granted a license for

radios and TV sets (mainly for export to foreign countries) but they are only making radios for the time being.

In what concerns the TV programs for the Angola and Mozambique stations, the President of R.T.P. takes the view that these will have to be mainly in Portuguese (films do not have to be dubbed but need sub-titles in Portuguese) and have to consist mainly of "canned programs" sent from Lisbon, by airfreight.

To assist us in making a complete study of the problem, R.T.P. is willing to let us have the figures and information which have been collected during the last few years, not only for the Portuguese territories in Africa but also for metropolitan Portugal. No doubt, however, these figures will have to be supplemented by further analysis and fact finding and we in SE Lisbon will be glad to participate in this to the extent required.

[3236] We understand that other foreign organizations have recently expressed a great interest in this matter and I feel that if we are going to move into this area, we should do so without delay.

In accordance with our telephone conversations, I will now approach the Minister of Overseas, on a personal basis, and seek his views and advice in this matter. I also feel that we should write, as early as possible, to the Governors of Angola and Mozambique expressing our position but, for this purpose, I must receive directives from Headquarters.

Perhaps I should also mention that we have also reviewed with Dr. Luis de Ataíde the prospects of installing TV stations on Portuguese territories other than Angola and Mozambique and he told us that by the end of the current year a new station will be operating in Funchal (Madeira Island) and three new stations will be installed during 1967 in Ponta Delgada, Horta and Angra (in the Azores archipelago); these stations will be operated directly by R.T.P. and will use essentially "canned programs" sent by air from Lisbon. In other overseas territories such as Portuguese Guinea, Cape Verde Islands, S. Thomas

Island, Macau and Timor, the prospects of installing TV broadcasting are very remote.

With kindest regards,

Yours sincerely,

A. A. DE CARVALHO FERNANDES,
Managing Director.

* * * * * * *

[Federal Communications Commission Exhibit No. J-251; presented by Justice Department]

[3238] INTERNATIONAL TELEPHONE & TELEGRAPH CORP., INTERNATIONAL HEADQUARTERS,
January 3, 1966.

To: Mr. Hart Perry.
From: Robert H. Kenmore.
Subject: ABC International.

Based on the attached news story, Cooke called me late last week to see if a meeting could be set up with Don Coyle to discuss a possible joint venture in South Vietnam. I gathered from him that Mr. Geneen had asked Gary to do this.

As a result, I called Coyle and determined that he had been in Vietnam in February, 1965, and felt at that time that the deal would be too big for them to handle in terms of the required investment involved. He would be delighted to talk to our people about a potential joint approach and will be coming here this Friday, January 7, at 2:30 to meet with Andlinger.

[Federal Communications Commission Exhibit No. J-255; presented by Justice Department]

[3247] RESPONSE TO PARAGRAPH 8

During 1965 and 1966, both the Puerto Rico Telephone Company (Ricotel) and the Virgin Islands Telephone Company (Vitelco) purchased from ITT Caribbean Manufacturing Inc. (CM)[1] and from its subsidiary, ITT Caribbean Sales & Service

[1] It should be noted that the Public Service Commission of Puerto Rico, in furtherance of the Industrial Development Program, issued an order authorizing Ricotel to purchase from CM without securing competitive bids otherwise required by orders of the Commission.

(P. R.) Inc., approximately 98% of the telephone equipment, materials and supplies bought by those telephone companies. CM was established in 1962 under the provisions of the Industrial Development Program of the Commonwealth of Puerto Rico and engages in manufacture of telephone equipment in Puerto Rico which it supplies to Ricotel and Vitelco, as well as acting as a purchasing agent for these companies for products which CM does not manufacture. These purchases included products of the kind manufactured by ITT System companies, but which were manufactured by other companies.

A review of invoices over the two years was made by the CM controller's staff to determine the major items manufactured by ITT companies purchased for these companies by CM from other companies. The total for the two years of these major items, principally microwave purchased from General Telephone & Electronics, was $568,434 of a total of all purchases by these telephone companies from CM of $7,766,668, or approximately 7.3%. It is further estimated that the purchase of other supplies such as wire and cable of types manufactured by ITT, but purchased from others, totaled $200,000, or an additional 2.5%.

[Federal Communications Commission Exhibit No. J–256; presented by Justice Department]

[3248] INTERNATIONAL TELEPHONE & TELEGRAPH CORP.,
INTERNATIONAL HEADQUARTERS,
August 24, 1966.

To: Mr. A. E. Cookson.
From: E. E. Benham.
Subject: ABC.

During the past two weeks I have had several meetings with various ABC engineering and operations personnel. These have included inspection tours of most of their New York and New Jersey technical facilities. The purpose of these was to determine the present condition to help in the evaluation of potential future requirements. Arrangements have been made to meet with Jules Barnathan, Vice President of Engineering and

Operations, to inspect the West Coast facilities of ABC during this next week. A complete report on the facilities status will be submitted to you in the near future.

Si Siegel seems to be anxious for ITT to complete a facilities evaluation to confirm cost projections which were apparently made by ABC during the negotiations. I have attached an 8 year summary of the capital equipment and facilities request which shows the amount spent in the various locations. From what I have learned to date, it appears that the 67–68 expenditures will be considerably over those of the 65–66 period. The requirements for facilities improvement and additions will depend on such things as the emphasis placed on sporting and news events, the Federal Communications Commission's policies regarding local station vs. network program origination, and the extent to which live production is used in place of film. Each of these is currently being analyzed for their effect.

There is some internal disagreement at ABC regarding the present so-called master plan of expansion. This might be an area where our firm guidance can be of value to the future of ABC.

On the satellite project, I have read my way through several feet of papers and reports furnished by Miss Clark and have a fair picture as to the business and political ramifications. I have also concentrated on analyzing the MESA report along with others and feel I am beginning to understand some of the technical problems. With television broadcasting becoming directly involved in the satellite program, the public will have a greater interest in it. This may cause the politicians to take a more active interest and could accelerate some of the clarifications required from the FCC and Congress.

[3249] [Federal Communications Commission Exhibit No. J–257; presented by Justice Department]

JANUARY 13, 1967.

Memorandum for Messrs. A. E. Cookson, S. S. Flaschen.
Subject: Meeting with R. Kenmore in re ABC.

I had a luncheon meeting with Bob Kenmore on January 13 at his request to discuss some of the general and financial

circumstances surrounding the ABC merger. I presented him with the attached list of ABC projects which is a slightly updated and revised format of the earlier two-year projection. This list represents a total of expenses of $50 million.

Bob indicated that he and Mr. Geneen had had several discussions regarding the methods of financing, however had not as yet arrived at any actual conclusion. We were working on a facilities plan and schedule which would provide a reasonably good indication of the cash flow requirements for bringing the ABC plant up to full color and into a competitive position with the other networks. I will be attending a series of meetings throughout the country with the ABC Engineering and Operations Vice President, Mr. Jules Barnathan, finalizing the details of the network and station facilities requirements. We hope that by the first joint ITT/ABC Board Meeting a complete plan will be available for their review.

E. E. BENHAM.

[3274] [Federal Communications Commission Exhibit No. J-260; presented by Justice Department]

INTERNATIONAL TELEPHONE AND TELEGRAPH CORPORATION, INTERNATIONAL HEADQUARTERS,
February 10, 1967.

To: Mr. S. Bohon, Legal Department
From: John F. McLane
Subject: Paragraph 9—Department of Justice Letter of February 3, 1967

Since a complete detailed "tabulation of the 300 most important domestic U.S. suppliers of goods and services to ITT in 1966" would take at least two months of time and effort, we have endeavored to accomplish a spot check of our major purchases by telephone calls to several of our purchasing locations.

This survey merely substantiated the statement made accompanying the previous list of suppliers for 1965. The statement was "that the principal suppliers . . . during 1966 will be substantially the same concerns . . . with the possible exception of vendors and subcontractors of specialized equipment

or services required for completion of special government contract work, construction contracts, . . . of a nonrecurring nature."

For example, 1966 purchases from some of the major suppliers, appear to be approximately as follows:

General Motors	$26,000,000
Ford Motor Company	19,000,000
Chrysler Corporation	13,000,000
American Motors	4,500,000
E. I. duPont	3,000,000
International Harvester	2,750,000
Phelps Dodge	2,200,000
Bache & Co.	2,100,000
Gulf Oil	1,900,000
Armco	1,500,000
Teletype Corporation	1,200,000
Hewlett Packard	1,200,000
C. P. Clare	1,000,000
Noranda	1,000,000
Radio Engineering Lab	750,000
Raytheon	600,000
Goodyear	580,000
Texaco	570,000
Shell Oil	460,000
[3275] Firestone	350,000
Adams Russell	125,000
Foundation Co. (shown on '65 list)	0

In the main, any fluctuations, up or down, in purchasing volume with a particular vendor, are caused by the volume of requirements of the purchasing location due to production schedules based on actual and forecasted sales by that particular location.

The purchasing manager at any location is responsible for procuring goods and services at the lowest possible total cost of usable products.

JOHN F. MCLANE,
Corporate Purchasing Department.

[3276] [Federal Communications Commission Exhibit No. J-261; presented by Justice Department]

Twenty-three Documents Introduced in Evidence or Received by the Department of Justice from ITT in Connection with Litigation in *Commercial Cable Co.* v. *United States*, Ct. Claims No. 213-60, Lettered (a) through (w).

* * * * * * *

(i)

From PR, London, to EVP, New York, Nov. 3, 1954

[3293] 489 Had meeting with Harold MacMillan Minister of Defence Tuesday, 20 minutes of which were devoted to briefing him on Deep Freeze with full representations of JCS position, CandW support, expenditure of 17,000,000 dollars in UK, adoption of BPO repeater technique, etc. Half way thru our meeting he dictated memo to permanent Secretary of his Ministry, advising of his relationship with me during war, my present position, the cost and route of Deep Freeze and the JCS support saying that he understood our application had been pending for some time before HMB and was of interest to BPO, CandW and his Ministry. He suggested that he be informed soonest where the matter stood.

I informed Mr. MacMillan that I had heard that becos of possible divergence of opinion between BPO and CandW, BPO might refer to PM and I asked for an opportunity to be heard at highest level if there should be possibility of a negative or restrictive decision.

Comment—We feel that MacMillan's interest will speed up JCFB action on JCS paper and probably will get quick action also at BPO, at the same time probably giving CandW a chance to be heard by Ministry of Defence without "censorship" by BPO. I really feel much good was accomplished becos of MacMillan's strong position in Government.

I propose to advise Radley on Friday that I am leaving for Copenhagen. May return here before proceeding Reykjavik but this will depend on developments. Please advise General Harrison and Nesbitt. KRS.

Forest L. Henderson, EVP—PR, London, November 25, 1954

[3303] OUTGOING MESSAGE

804 Have just had *phone* conversation with *Martin Montreal.* He had just finished talking with *our counsel* who had received call from *Pearson Minister of External Affairs Thursday p.m.* who requests we keep following *information completely confidential. He advised that his department had received a note from the Canadian High Commissioner's office in London to the effect that the United Kingdom was opposing our application at this time and that it might be desirable for Canada to hold off making an immediate decision pending further exchanges*

between the two governments. In addition he *told our counsel* that *NATO* was now involved and that *various countries within NATO* were going to consider it. He said it was not too clear as to *how NATO came into picture* and he was going to look into that. If *NATO gets into picture* am informed could add considerable to delay. *Martin called Bryce (see my 420)* Thursday p.m. after receiving this information and explained situation to him outlining *Pearson's conversation to our counsel* and pointing out fact that we had been promised *a reply soon on our application by Canadian Government. Bryce* replied that he was going *to consult immediately with the various ministries* involved and *would give Martin a report* today Friday which *Martin is going to relay to me.* This *report from Bryce* will also be *strictly confidential* but it will help us to know the *lay of the land and guide us in making further plans and decisions.* We feel that it is *high time for our State Department* to step into this picture with a *strong message to the FU's of all countries* * * *

[3362] [Federal Communications Commission Exhibit No. J–262; presented by Justice Department]

IMPACT OF ITT'S TECHNICAL CAPABILITIES ON THE PERFORMANCE OF UHF TV SYSTEM

A. E. Cookson—9/16/66

1. It is theoretically possible to get identical performance at the TV viewers set between TV transmission systems working in the low VHF band, the high VHF band, and in the UHF band.

Listed below are the characteristics of typical low and high band VHF stations and a UHF station which would have the same theoretical coverage.

Low Band VHF: Channels 2–6, 56–88 Mc. 100 KW Effective Radiated Power.

High Band VHF: Channels 7–13, 174–216 MCPS. 316 KW Effective Radiated Power.

UHF: Channels 14–83, 460–890 MCPS. 5,000 KW Effective Radiated Power.

The effective radiated power is a single factor which represents a combination of the power of the transmitter, the loss in the antenna feeders, and the gain of the transmitting antenna.

For the purposes of this presentation, the height of the transmitting antenna has not been brought into the picture.

Because of practical limitation in transmitter power at UHF, it is necessary to use much higher gain antennas on the UHF system.

2. The implication of Item 1 above is that theoretically with these three transmitters and equivalent height antennas, you would get the same picture quality (30 db signal to noise ratio—which is the threshhold where the lay viewer sees noise in his picture) assuming that you have equivalent performance of the home receiving system for all of these three bands.

3. In practice for reasons that will be amplified in later sections of this report, it is considerably more costly to get the equivalent coverage with the UHF station as with the VHF station. In fact, due chiefly to problems with the home receiving equipment, at present you really do not get the same viewer coverage.

[3363] The present number of UHF and VHF affiliates for the three major networks is given in the following table:

	VHF	UHF	Total
ABC	113	24	137
CBS	183	24	207
NBC	174	29	203

In order to get the same total basic affiliate coverage, ABC must expand by approximately 65 more affiliates and these must be mainly UHF as essentially all the VHF channels are taken in the applicable markets.

Thus, in the long run, ABC must depend on UHF stations to a much larger extent than CBS and NBC.

5. The reasons that it is more difficult for a UHF station to obtain the same coverage (audience) as a VHF station are as follows:

a. The transmitting plant for the UHF station, in order to get the much higher effective radiated powers indicated in Table 1, is considerably more expensive to build. The antenna system is more expensive by a ratio of about 3 to 1, and the transmitter, because of its higher power and higher frequency requirements, is more expensive by a ratio of about 2 to 1.

b. The annual cost of operating the transmitter plant of a UHF station is higher than the equivalent VHF station by about 2 to 1.

c. However, the present most formidable limitation to obtaining UHF performance is in the receiving installation at the viewer's household. Here, the UHF system suffers from the following limitations in comparison with the VHF system.

(1) *Antennas*—Because the propagation loss is higher for the UHF signal, the UHF antenna must have considerably higher gain than the VHF equivalent. In addition, the problem of ghosts is worse with the UHF system and so the antenna must provide higher rejection of signals arriving from undesired directions.

(2) *Feed Lines*—The signal lost in the feed lines from the antenna to the TV set is a direct function of frequency for any given type of feed line, which means in practice that there will be 3 to 6 db more loss in the feeders unless particular care is taken in the UHF feed system.

[3364] (3) *Receiver Front-End*—Most present UHF receivers have a noise performance which is 3 to 6 db worse than the VHF equivalents.

(4) *Tuning Convenience*—The tuning-in of UHF stations is generally more inconvenient than the simple click of the VHF tuner. For a technically skilled person, this difference is insignificant; however, for a housewife or an elderly person, the difference may be enough so that they won't use the UHF channel.

d. At present, viewer/advertiser acceptance is considerably less on UHF than VHF. This acceptance differential will be overcome with time if equivalent technical performance is obtained on each band.

6. ITT's technical resources (20,000 professional engineers on a world-wide basis) can have considerable impact on mitigating all of the problems listed above relative to the shortcomings of UHF systems relative to VHF. The specifics of how these technical resources can be brought to bear are contained in the following sections.

7. ITT has considerable world-wide activity in the design and cost reduction of high frequency transmitters. An essential

part of this design effort is in the substitution of high power solid state devices for the present transmitting klystrons. The application of this know-how can close the present price gap existing between UHF and VHF transmitters.

8. ITT has several technical teams working on the design of high power transmitting antennas for a wide variety of applications including television transmission. These design groups can be applied to the evolution of cheaper and more efficient UHF antenna systems, thus assisting in reducing the present cost differential between UHF and VHF antenna installations.

9. ITT has several professional groups working on propagation and antenna coverage studies. The application of this know-how to propagation, site selection, and allocations activities for the affiliated stations should help to improve the coverage of UHF stations relative to VHF stations.

10. ITT technical resources can be applied to the problem of improving the technology of filling in shadows (which are a particular problem with UHF) by the more advanced application of re-transmission systems (such as translators, repeaters, cable systems, etc.). ITT has presently a considerable design activity at Standard Electrik Lorenz in Germany in the design of UHF translators.

[3365] 11. ITT has in process a number of sizable studies in the area of automation of complex communication systems. ITT's technical resources can help lower UHF operating costs by the application of these advanced technical concepts to the automated control of station operations.

12. As indicated earlier in the report, one of the chief problem areas in bringing the real performance of UHF up to VHF lies in the technical performance of the receiving system at the viewers household. ITT has the following specific activities in process to get equivalent UHF performance to that of VHF.

a. A study of inexpensive, very wide band receiving antennas which will operate and give equivalent performance over the whole VHF/UHF spectrum.

b. In one of our major cable subsidiaries, we are developing a new type of foam dielectric cable which will reduce the trans-

mission loss over the whole UHF band down to that which is normally experienced in the low VHF bands.

c. ITT has a program to develop a complete set of components for an all solid state electrically tuned television receiver front-end which will contain no mechanical parts and will give identical performance for all VHF and UHF stations. This front-end will be push-button tuned and the push-button will be the only mechanical element in the system. We have presently completed the design of the varactor diodes, which are the tuning elements in this system, and are selling these varactors on the open market. At present, to our knowledge, we are the only company that has varactors with adequate performance over the whole frequency band. In addition, we are working on the development of high frequency gallium arsenide transistors for this solid state tuner. These transistors will allow the tuner to give essentially the same signal to noise performance over the whole VHF/UHF band.

d. The target for our tuner design activity is to produce a cheap, efficient, all solid state tuner which will give equivalent electrical performance in all respects over the total UHF/VHF bands and, in addition, will have identical tuning procedure (push buttons) for both UHF and VHF stations.

As a result of the studies indicated in "a" through "d" above, ITT expects to have the necessary components to bring UHF television home receiver performance up to be identical with present VHF performance.

[3366] 13. All of the above was concerned with how ITT's technical capabilities can assist in upgrading the performance of UHF television. In a broader sense, ITT's technical resources can assist ABC in the long run as follows:

a. ITT does $330,000,000 per year of R&D work on telecommunication fields and employs approximately 20,000 engineers on a world-wide basis.

b. ITT is a pioneer in satellite communication systems, as demonstrated by their contribution to the Relay, Courier, and Intelsat programs and their recent coverage of the Gemini shots.

c. ITT can supply ABC with immediate capability to expand news and special event coverage on a world-wide basis via satellite terminals.

d. In the longer run, ITT can provide the know-how to make economical nation-wide and world-wide distribution of television programs via conventional and satellite transmission systems.

e. ITT can supply technical know-how in the camera and studio equipment area to improve the technical quality of TV broadcasting.

f. ITT can provide the electronic and communication system and equipment know-how to make possible cost reductions in TV and broadcast systems to permit a wider distribution of programs at a lower consumer cost basis.

g. ITT maintains three central laboratories which contain a cross-section of experts in all telecommunications and electronic fields. The skills in these laboratories can be brought to bear to solve many of the immediate problems of ABC and also to build a base for the most efficient and economical expansion of the TV and broadcast arts.

h. In the longer run, the TV and broadcast industries must evolve beyond the present services, techniques, and equipment available. ITT can provide the technical know-how to help lead the broadcast industry into such possibilities as:

(1) Direct broadcast of TV from satellites to the home.

(2) High quality, efficient distribution of broadband information signals by means of advanced modulation techniques such as pulse code modulation.

(3) Large screen, high definition, three dimensional color television.

(4) Microminiaturized studio and transmission equipment to allow convenient coverage of all types of dispersed news or national events.

(5) Direct radio broadcast of hard copy print out, such as newspapers, to the home.

[*Federal Communications Commission* Exhibit No. J–265; presented by Justice Department]

[3376] American Broadcasting-Paramount Theatres, Inc. Annual Report, 1960

*   *   *   *   *

[3379] *The year in brief*

	1960	1959
Income:		
ABC operating income	$222,439,000	$172,469,000
Theatre operating income	86,281,000	91,139,000
Merchandise sales and other income	25,717,000	24,349,000
Total	334,437,000	287,957,000
Expenses:		
Operating and general expenses	295,427,000	254,003,000
Depreciation	6,482,000	6,461,000
Interest	2,347,000	2,227,000
State, local and payroll taxes	7,311,000	6,441,000
Federal income tax	12,395,000	10,858,000
Total	323,962,000	279,990,000
Net Profit:		
Operations	10,475,000	7,967,000
Capital gains	1,342,000	187,000
Total	11,817,000	8,154,000
Per share common:		
Operations	*$2.50	1.87
Capital gains	*.32	.05
Combined	*2.82	1.92
Dividends Paid:		
Total—Cash	4,218,000	4,347,000
Per share preferred	1.00	1.00
Per share common	1.00	1.00
2% Stock Dividend—Common shares issued	82,994	
Shares outstanding:		
Preferred	67,931	71,231
Common	4,232,731	4,149,362
Financial Position:		
Working capital	64,833,000	52,034,000
Fixed assets (net)	66,185,000	67,665,000
Long-term debt	53,423,000	56,805,000
Common stock equity	90,140,000	82,624,000
Per share common	21.30	19.91
General:		
Stockholders of record	22,396	24,728
Theatres	472	498
ABC-TV Network affiliates	228	234
ABC-Radio Network affiliates	385	354

*Based on shares outstanding at end of each quarter.

[Federal Communications Commission Exhibit No. J-269; presented by Justice Department]

[3502] AMERICAN BROADCASTING-PARAMOUNT THEATRES, INC., ANNUAL REPORT, 1964

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[3506] PRESIDENT'S LETTER TO SHAREHOLDERS

It is with particular pleasure that I am able to report to you that revenues and operating earnings achieved record levels in 1964. The progress that we have shown this past year, particularly in the greatly strengthened position of our television network this past fall, has laid the foundation for further improvement in revenues and earnings in 1965.

Here are some of the highlights of our activities:

• Revenues rose to $420,915,000 from $386,729,000 in the previous year. Operating earnings of $11,019,000 represented a 49% increase over the $7,385,000 for 1963. On a per share basis, this represented $2.40 a share compared with $1.62 a share last year.

• The quarterly cash dividend was increased to 35¢ a share from 25¢ a share, effective with the third quarterly payment last September.

• The efforts made over the past two years in building our current television network schedule resulted in obtaining the highest audience levels ever achieved for our evening programming. Based on nighttime national audience measurements, the ABC-TV Network is fully competitive with the other major networks. As further evidence of the public acceptance as well as the quality and diversity of our programming, advertiser commitments for the coming season starting this fall are at a higher level than they were at this time last year.

• Our news department continued to develop in terms of personnel, facilities and programming. This was most evident in their excellent performance in covering the national political primaries, conventions and elections of 1964. This coverage, while costly to our Company and to the industry, demonstrated the scope and effectiveness of electronic journalism as it brought these important events into the homes of all Americans.

• Our owned television and radio stations reported record revenues and achieved impressive results in the development of local programming and services and in their improved competitive position in their respective markets.

• The progress that our radio network has shown reflects not only the growing interest that has been evident in radio but also the excellent news service and entertainment and sports programming that it offers.

• In our theatre business, there was a better flow of quality motion pictures resulting in an improvement in earnings. We have accelerated our program of adding modern theatres and more are planned, particularly in shopping centers in growing suburban areas.

• Our other activities in the entertainment and communications fields have continued to perform well. These include the syndication of television programs, phonograph records, farm publications and scenic attraction centers. Our international division has continued to expand and currently is associated with stations in twenty-three countries.

[3507] • To accommodate our growing organization and to effect greater efficiencies in operation, our New York administrative offices will be centralized later this year in a new building that is presently in construction at 1330 Avenue of the Americas. Plans are also underway to improve and consolidate the operational functions of the broadcasting division, presently housed in a number of different locations, on our present properties at West 66th and 67th Streets. A new studio incorporating live color capability will be included in this center as well as in Hollywood where administrative and technical facilities for our West Coast television operation will also be enlarged. For these purposes as well as to provide for the continuing growth of our Company, we recently concluded an arrangement to refinance existing debt and provide for additional funds, which is more fully described in the financial section of this report.

• A significant step was taken last November to improve our employee benefit program by instituting a contributory retirement plan covering staff employees of the Company and certain subsidiaries.

George P. Jenkins, Financial Vice President and a director of Metropolitan Life Insurance Company, was elected a director of the Corporation succeeding A. H. Blank. Mr. Blank, a leading figure in the motion picture industry and in community affairs in the Des Moines, Iowa area for many years, rendered valued service as a director from 1951 until his retirement. Samuel H. Clark was elected a vice president in charge of theatre operations. Mr. Clark, who was president of ABC-Paramount Records, was succeeded by Larry Newton. Edward L. Hyman, a vice president of the Company in charge of our northern group of theatres, retired after a distinguished career as one of the most respected and well-known executives in the theatre business.

Increasing public and advertiser interest in broadcasting, more leisure time being devoted to entertainment activities, the developing potential of world-wide television broadcasting and a viable economy—all support the fundamental business of your Company. With this outlook for business growth and with the financial resources, as well as the human resources of a dedicated organization which make up our corporate family, your Company is in the strongest position in its history.

Sincerely,

LEONARD H. GOLDENSON,
President.

MARCH 8, 1965.

[3508] FINANCIAL REVIEW

Revenues were at a record level of $420,915,000 compared with $386,729,000 in 1963. Although there were 53 weeks in the 1964 year compared with 52 weeks in 1963, revenues were at an all-time high exclusive of the additional week in 1964. Revenues for the broadcasting division rose to $310,135,000 from $280,572,000, reflecting increases for both the television and radio networks and owned stations. Theatre revenues increased to $78,891,000 from $76,209,000, despite the fewer theatres

operated in 1964 than in 1963. Other revenues, principally from the phonograph record and publishing activities were $31,889,000 compared with $29,948,000 in 1963.

Earnings from operations increased to a record level of $11,-019,000 compared with $7,385,000 in 1963. On a per share basis, this represented $2.40 a share compared with $1.62 a share last year. The improvement was derived principally from broadcasting and theatres, the major operations of the Company, and the benefit from the lower Federal income tax rates. Results applicable to the 53rd week were not significant. Earnings, including capital gains, were $11,196,000 or $2.44 a share compared with $7,927,000 or $1.74 a share for the previous year.

Cash dividends were paid at the quarterly rate of 25¢ a share for the first two quarters of the year. The dividend rate was increased 40% in the third quarter with payments of 35¢ a share made in the third and fourth quarters. For the full year cash dividends were $1.20 a share totaling $5,512,000 compared to $1.00 a share for a total of $4,463,000 in 1963.

Long-term debt at year end comprised the 4.2% notes issued under the Loan Agreement with Metropolitan Life Insurance Company in [3509] the amount of $42,500,000 and various other obligations amounting to $4,059,000.

Arrangements have been made with the insurance company for a new Loan Agreement to obtain additional funds required to meet the Company's expanding needs, including the renovation of the broadcast operations center in New York, the planned expansion of television studio facilities in New York and Hollywood incorporating live color capability and the requirements for the Company's new headquarters administrative building.

The new loan will provide funds for the repayment of the existing $42,500,000 of notes and an additional amount of $27,500,000 to be taken down during the period from July 1, 1965 to July 1, 1966. Notes to be issued under the new Loan Agreement will bear interest at 4.55% per annum and provide for semi-annual payments commencing January 1, 1966 to final maturity on July 1, 1985.

Stockholders' equity increased to $119,493,000 or $25.84 a share on 4,623,548 shares outstanding at the end of the year

from $112,266,000 or $24.63 on 4,557,444 shares outstanding at the close of 1963.

Working capital increased $2,961,000 to $72,103,000 at the year end. Cash and securities at year end were lower than at the end of the preceding year. This reflects the employment of funds, occasioned by the efforts to improve and insure the supply of quality programs, for the acquisition in advance of broadcast exhibition rights for a substantially greater number of television films scheduled for network and station use.

Depreciation for the year amounted to $6,705,000 of which $3,401,000 related to the broadcasting division, $2,735,000 to theatres and $569,000 to other operations. Expenditures for property and equipment amounted to $8,717,000 of which $5,380,000 related to the broadcasting division, principally for the modernization of television equipment and the expansion of studio and office facilities, $2,863,000 applied to theatres, principally for new properties and the improvement of existing theatres, and $474,000 applied to other operations.

Working capital summary

	1964	*1963*	*Increase (Decrease)*
Composition:			
Cash and securities	$32,945,000	$51,095,000	$(18,150,000)
Program rights	41,654,000	23,858,000	17,796,000
Other current assets	48,029,000	45,493,000	2,536,000
	$122,628,000	$120,446,000	$2,182,000
Less current liabilities	50,525,000	51,304,000	(779,000)
Working capital	$72,103,000	$69,142,000	$2,961,000
Sources:			
Earnings from operations			$11,019,000
Depreciation			6,705,000
Capital gains transactions, net			1,275,000
Common stock sold under options			1,543,000
Other, net			1,299,000
			$21,841,000
Uses:			
Cash dividends			$5,512,000
Property and equipment			8,717,000
Reductions of long-term debt			
Under Loan Agreement			2,500,000
Other notes and mortgages			245,000
Investments in associated companies			1,906,000
			$18,880,000
Increase in working capital			$2,961,000

[3510] ABC Television Network

With the start of the new 1964–65 television season in September, the ABC Television Network achieved full competitive status with the other networks in nighttime audience levels. In the fourth quarter, 23% more homes per average minute were reached than at a comparable time the previous year.

Of particular significance is the greater appeal of the ABC network's programs to younger adult and larger family households which represent the major portion of the buying public for consumer goods and services. These factors have contributed to the commitment of a much larger volume of advertising revenues for the forthcoming 1965–66 television season starting this coming fall than was true at this time last year.

Heading the list of very popular new programs was the hit of the current television season—*"Bewitched,"* the delightful comedy starring Elizabeth Montgomery and Dick York. Others were *"The Addams Family," "Peyton Place"*—the successful new concept in bi-weekly continuing drama, *"No Time for Sergeants," "Voyage to the Bottom of the Sea"* and *"The Sunday Night Movie." "Shindig,"* an innovation in popular musical programming, also proved to have wide appeal.

These programs served as some of the building blocks of the program structure that is diversified not only in program type, but within each type as well. The wide variety of drama offered included *"Ben* [3511] *Casey," "Combat!"* and *"The Fugitive,"* in addition to *"Burke's Law"* and *"12 O'Clock High."* In variety programs, there were *"Jimmy Dean," "The Hollywood Palace," "The King Family"* and *"Lawrence Welk,"* who is celebrating his 10th anniversary with the network. Situation comedies, in addition to those mentioned previously, were well received—*"McHale's Navy," "My Three Sons," "Farmer's Daughter," "Ozzie & Harriet," "Patty Duke"* and also *"The Flintstones," "Broadside"* and the warm and humorous *"Donna Reed."*

The prestige of the evening schedule was enhanced by the marquee value of such stars as Bing Crosby, George Burns and Walter Brennan and by the addition of the *"FDR"* series which the New York Times said "promises to be far and away one of the most distinguished documentary series of the season."

Comprehensive news and public affairs programs, more fully described in the ABC News section of this report, contributed to the overall balance and diversity of the schedule. Dinah Shore, the Academy Awards and Sophia Loren in Rome highlighted some of the special programs telecast.

In daytime, further progress has been made in the selection of programs which broadly cater to a women's audience. Two new series were added—*"The Young Marrieds"* and *"Flame in the Wind"* and are expected to build audiences on the daytime theme of drama which has proved so successful in *"General Hospital."*

In sports, the network has been highly commended for the use of inventive and imaginative camera techniques such as the isolated camera shots during football games, and for the ingenuity and skill which it applied to the weekly sports series, *"Wide World of Sports"* as well as to the exclusive coverage of such outstanding events as the IX Winter Olympics, The Olympic Trials and The Davis Cup Tennis Matches. The sports agenda for the 1964–65 season includes PBA Bowling, NBA Basketball, professional football, the All Star Game, five post-season college bowl games, four specials on the American Sportsman, the PGA Golf Championship and national coverage for the first time on a weekly basis of major league baseball.

At the year end, the ABC Television Network had 130 primary affiliated stations which covered 93.5% of U.S. television homes. The median lineup for the typical evening program was 179 stations covering 96.7% of U.S. television homes. Included in this lineup are a number of secondary affiliated stations, specifically in one or two station markets, which carry many programs on a delayed basis or at a less desirable evening time period than do the primary affiliates. The lack of primary outlets in certain key markets which presently have only two stations continues to hamper the network which, through the Federal Communications Commission, continues to seek parity with the other networks in this regard.

[3512] ABC News

During another momentous year, ABC News continued to grow in stature and reputation. The completeness and thor-

oughness of its reporting was most evident in its coverage of the national political events of 1964. Headed by anchormen Howard K. Smith and Edward P. Morgan, special programs and on-the-scene coverage were provided during the New Hampshire, Oregon and California primaries, the conventions and election night. The story of the Republican and Democratic conventions was reported by the most extensive task force it ever assembled. ABC reporters traveled throughout the country with the principal candidates and *"ABC's Politics '64,"* a prime-time political series, gave in-depth coverage and analysis to the campaign as it progressed.

On election night, viewers and listeners were able to follow the vote tally and the trends as reported by ABC correspondents, assisted by the latest computers and the newly-formed Network Election Service, a joint pool effort by the three networks and two major wire services to provide faster national election returns. In addition, ABC News covered the headquarters of the Presidential and Vice Presidential candidates as well as those of other major candidates for Senator, Congressman and Governor.

Although politics dominated the American scene in 1964, there were many other important events which ABC News reported. With expanded world-wide facilities, ABC News was often first with the story. Most notable example is that of Moscow correspondent Sam Jaffe who beat all news media in reporting the deposition of Soviet Premier Khrushchev.

Often forgotten are the efforts and difficulties encountered daily in reporting the news, ranging from the civil rights struggle in our country to the fighting fronts in Vietnam and the Congo.

In 1964, the dramatic involvement of ABC News diplomatic correspondent John Scali in the 1962 Cuban missile crisis was revealed. The secret contact of Mr. Scali by a Soviet representative began one of the most unusual diplomatic exchanges ever conducted by major powers. Mr. Scali's efforts were highly commended by the Government.

ABC News brings the only television network news program to evening audiences seven days a week, with Peter Jennings featured during the week and Bob Young on Saturdays and Sundays.

Many splendid documentaries were presented covering a broad range of subjects. ABC's distinguished series *"Saga of Western Man"* was honored by a Peabody Award. Three presentations are scheduled, again in color. The stories of Leonardo DaVinci, the Pilgrims and General George Custer are being presented using the unique television technique which has brought this series world-wide recognition. Other special programs include *"Letters from Vietnam"* and *"Mission to Malaya,"* which shows in a personal and fascinating manner, the story of an American helicopter pilot and the exploits of two young Peace Corps nurses. Included in the schedule for 1964–65 are documentaries such as man's explorations of the world beneath the sea. Another special series includes a program on teen-agers and on the exploits of scientists in unusual and dramatic experiments attempting to solve the problems of today and tomorrow.

ABC News' prime time television program *"Scope"* continued to present a wide variety of provocative subjects ranging from a discus-[3513]sion of Shakespeare by Richard Burton to the dramatic story of a country doctor. This distinguished series is receiving much critical commendation for its perspective and imaginative presentation.

ABC News continued to present the great personalities of our times on *"Issues and Answers."* Other programs, broadcast on both the radio and television networks, are *"Directions '64,"* the distinguished religious series produced in cooperation with the major faiths and the award-winning children's television series *"Discovery"* which presented special programs prior to the political conventions and election night describing, in young people's terms, the political drama that was taking place.

[*Federal Communications Commission* Exhibit No. J–270; presented by Justice Department]

[3531] AMERICAN BROADCASTING COMPANIES, INC., ANNUAL REPORT, 1966

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[3533] AMERICAN BROADCASTING COMPANIES, INC., ANNUAL REPORT, 1966

Year in brief

	1966	1965
Revenues:		
Broadcasting	$413,684,000	$361,631,000
Theatres	82,390,000	80,982,000
Merchandise sales and other	43,898,000	33,852,000
Total	$539,972,000	$476,465,000
Expenses:		
Operating and general expenses	$485,505,000	$430,131,000
Depreciation	8,756,000	7,110,000
Interest	3,686,000	2,395,000
State, local and payroll taxes	9,315,000	7,908,000
Federal income tax	14,850,000	13,200,000
Total	$522,112,000	$460,744,000
Earnings:		
Operations	$17,860,000	$15,721,000
Capital and non-recurring gains (losses), net	206,000	(156,000)
Total	$18,066,000	$15,565,000
Per share:		
Operations	$3.81	$3.39
Capital and non-recurring gains (losses), net	.04	(.04)
Total	$3.85	$3.35
Dividends:		
Total	$7,496,000	$6,962,000
Per share	$1.60	$1.50
Financial Position at Year End:		
Working capital	$91,755,000	$93,772,000
Property and equipment, net	$113,464,000	$74,292,000
Total assets	$320,315,000	$262,777,000
Loans and notes due after one year	$87,897,000	$62,030,000
Stockholders' equity:		
Total	$141,111,000	$129,672,000
Per share	$29.98	$27.70
Number of common shares issued	4,707,270	4,681,896
General:		
Stockholders of record	16,746	17,882
Theatres	401	399
ABC-TV Network affiliates (including secondary affiliates)	269	263
ABC-Radio Network affiliates	414	432

Earnings per share are based on the average number of shares outstanding.

[3534] PRESIDENT'S LETTER TO STOCKHOLDERS

Revenues and operating earnings for 1966 were at record levels. Revenues rose to $539,972,000 from $476,465,000, an increase of 13%. Operating earnings of $17,860,000 increased 14% over the $15,721,000 for the previous year. On a per share basis, these earnings represented $3.81 a share compared with $3.39 a share for 1965. All major divisions of the company contributed to these higher levels.

[3536] FINANCIAL REVIEW

Revenues were at a record level of $539,972,000 compared with $476,465,000 in 1965, an increase of 13%. Revenues for the broadcasting division rose to $413,684,000 from $361,631,000, reflecting increases in the television and radio networks and owned stations. Theatre revenues increased to $82,390,000 from $80,982,000. Other revenues rose to $43,898,000 from $33,852,000, reflecting principally the increase in phonograph record activities.

Earnings from operations increased to a record level of $17,860,000 compared with $15,721,000 in 1965, an increase of 14%. On a per share basis, this represented $3.81 a share compared with $3.39 a share last year. All major divisions of the Company contributed to the improvement in earnings.

Cash dividends paid were $7,496,000 or $1.60 per share compared to $6,962,000 or $1.50 per share in 1965.

Stockholders' equity increased to $141,111,000 or $29.98 a share at the end of the year from $129,672,000 or $27.70 a share at the close of 1965.

Loans and notes payable increased during the year by cash borrowings totaling $34,000,000 representing the final takedown of $9,000,000 under the 1965 loan agreement with Metropolitan Life Insurance Company and $25,000,000 obtained under a new loan agreement with banks. The loans and notes payable of $95,187,000 outstanding at the end of the year, of which $7,290,000 are repayable during 1967, comprised the 4.55% notes to Metropolitan Life Insurance Company amounting to $66,250,000, the notes payable to banks, bearing interest

at ¼ of 1% per annum above the prevailing prime commercial loan rate, amounting to $25,000,000 and various mortgage notes amounting to $3,937,000.

Subsequent to the year end, the Company borrowed an additional $2,500,000 under the loan agreement with the banks and concluded a loan agreement with International Telephone and Telegraph Corporation to borrow a total of $25,000,000 in five consecutive monthly installments of $5,000,000 commencing February, 1967, with notes bearing interest at ¼ of 1% per annum above the prime commercial loan rate prevailing on the date of issuance. ITT is not obligated to advance further installments if the Agreement of Merger is terminated before the total loan is made.

Notes issued under the 1965 loan agreement are repayable by semi-annual instalments with a final payment of $10.750.000 upon maturity, July 1, 1985, and notes issued under the loan agreements with banks are payable in approximately equal quarterly instalments from June 1, 1967 to March 1, 1972. The loan agreement with International Telephone and Telegraph Corporation provides that upon the merger the notes issued thereunder will be converted to advances, and if the Agreement of Merger is terminated, the notes shall mature one year thereafter.

[3537] *Working capital* decreased $2.017,000 during the year to $91,755,000 at year end, representing a ratio of current assets to current liabilities of 2.2 to 1. The following table illustrates the change in composition of working capital during the year and reflects the substantial decrease in cash funds, whereas program rights, other current assets and the current liabilities increased.

Working capital

	1966	1965	Increase (Decrease)
Cash funds	$19,833,000	$47,259,000	($27,426,000)
Program rights	82,775,000	50,750,000	32,025,000
Other current assets	67,195,000	55,790,000	11,405,000
	$169,803,000	$153,799,000	$16,004,000
Current liabilities	78,048,000	60,027,000	18,021,000
Working Capital	$91,755,000	$93,772,000	($2,017,000)

Cash funds, which amounted to $19,833,000 at the end of 1966, were $27,426,000 lower than at the end of 1965. This decrease in cash funds, when combined with the additional $34,000,000 borrowed during the year, represents a net reduction of $61,426,000 after utilizing the cash flow generated by the Company's business activities during the year. The large cash expenditures were made for the acquisition of rights to a substantial number of feature motion pictures for current and future television network use, which is reflected by the increase of $32,025,000 in the inventory of program rights, and for property and equipment amounting to $49,269,000. Property and equipment expenditures comprise $17,899,000 applicable to the broadcasting division primarily for continued modernization and conversion of studios and equipment to color as well as additional facilities; $7,660,000 related to theatres, principally for new theatres and the improvement or modernization of existing theatres; and $23,710,000 applicable to all other operations including the purchase of the new administrative headquarters building in New York. Depreciation for the year amounted to $8,756,000 of which $5,322,000 related to the broadcasting division, $2,518,000 to theatres and $916,000 to all other operations.

The sources and uses of cash funds for the year are set forth in the Cash Funds Statement below:

Cash funds statement for the year 1966

Cash funds used for:	
Property and equipment	$49,269,000
Increase in program rights	32,025,000
Dividends paid	7,496,000
Repayments under Loan Agreement	2,500,000
Increase in other assets, primarily receivables, less increase in liabilities of $14,599,000	166,000
Total	91,456,000
Cash funds provided by (excluding borrowings shown below):	
Earnings from operations	17,860,000
Depreciation	8,756,000
Capital and non-recurring transactions, net	2,544,000
Common stock sold under options	870,000
Total	30,030,000

Cash funds statement for the year 1966—Continued

Balance of cash used in excess of cash provided, derived from:	
Additional borrowings under long-term loan agreements	$34,000,000
Net reduction in cash funds	27,426,000
Total	61,426,000

[3538] ABC NEWS

ABC News provides world-wide news to both the ABC Television and Radio Networks through its more than 850 correspondents and supporting personnel in this country and in news bureaus abroad. It has been steadily expanding its operation in terms of facilities, including color transmission, programming and personnel in order to best fulfill its responsibilities as a major news service. Its programs have been cited many times for excellence and its commentators for comprehensive and creative reporting of the important issues confronting the American public and of the major events taking place around the globe.

Starting in January, 1967, ABC News expanded its network evening news program, "Peter Jennings with the News," to thirty minutes. This program, telecast in color for the first time, provides greater depth in its news coverage than was possible in its fifteen minute format, makes more effective use of such respected commentators as Howard K. Smith, Edward P. Morgan, William H. Lawrence and John Scali, and provides more frequent reports from its other correspondents at home and abroad.

Highlighting ABC News' coverage of important events this past year were its daily reports from its 25-man Saigon bureau on the conflict in Vietnam. Recognizing the public's concern and interest, these daily reports have been supplemented by "ABC Scope," a half-hour weekly series devoted to all aspects of the Vietnamese crisis.

In reporting the November Congressional and state elections and the space shots during 1966, ABC News' coverage and analysis received the highest acclaim from the industry's critics.

ABC News' increased schedule of documentaries, telecast on the network, totaled thirty-three hours. They were of great diversity and included: "Beethoven: Ordeal and Triumph" in "The Saga of Western Man" series; "To Save a Soldier," concerned with casualties in Vietnam; "The Long Childhood of Timmy," a touching study of mental retardation; and "The Hall of Kings," a tour through Westminster Abbey, one of Europe's most historic landmarks. Both ABC News' award-winning children's program, "Discovery," and its weekly series on religion, "Directions," offered new departures in program concepts.

One of the most extensive and ambitious programs, planned for network telecasting in September, 1967, will be a four hour prime-time presentation on Africa. Utilizing the resources and personnel of ABC News and the ABC–TV Network, together with leading experts and authorities on that continent, this unique project is expected to present new understanding of Africa, its socio-economic problems, its people, their lives, their activities and their heritage.

[3539] ABC TELEVISION NETWORK

The ABC Television Network is today, one of three major national networks, although it has a lesser number of primary affiliated stations than the other two networks. At the 1966 year end, the network had 138 primary affiliated stations providing direct coverage to approximately 93% of U.S. television homes. Despite its smaller lineup of stations, the network has continued to attract substantial viewing to and sponsor acceptance of its nighttime programming and has made further progress in sponsor acceptance of its daytime programming. In order to give added impetus to its daytime schedule, the network will convert a number of daytime shows to color in April and others in the Fall of the year.

The spectrum of the network's programming covers entertainment, sports, news and public affairs. In entertainment,

the network's evening schedule includes such well accepted shows as "The FBI," "Bewitched," "Peyton Place," "Hollywood Palace" and "Lawrence Welk." Popular programs, new in this current season, include "The Rat Patrol," "Felony Squad" and "That Girl" starring Marlo Thomas. Among the network's program innovations which have received much commendation and attention is "ABC Stage '67," a weekly series of varied program concepts including drama that has attracted top creative talent, new to the television medium.

In 1966, color became a demonstrably influential factor in viewing. By the year end, it was estimated that approximately 17% of U.S. television homes were equipped with color sets. Anticipating increasing numbers of color sets and in order to be more competitive with the other major networks, ABC–TV presented its entire evening schedule in color, virtually doubling its color output over the previous year. This entailed increased expenditures not only for programming but for color studios and equipment. Further expansion of such facilities will be required in the future.

A highlight of the current season was the telecast of the award-winning motion picture "Bridge on the River Kwai." This presentation attracted the largest audience for any television program with the exception of the "Academy Awards" telecast on ABC–TV last April. Recognizing the general high acceptance by viewers and advertisers of motion picture feature films, the network acquired a substantial number of quality films to provide for its needs for the current and forthcoming seasons as well. These include such major motion pictures as "The King and I," "Cleopatra," "The Longest Day," "Those Magnificent Men in Their Flying Machines," "The Agony and the Ecstasy," "Zorba the Greek" and "Von Ryan's Express."

The network's schedule of sporting events was a distinguished one. It included "Wide World of Sports," "The American Sportsman," major golf tournaments, including the British Open via satellite, and professional basketball and bowling. A highlight of its coverage of the NCAA football games this

past Fall was the Michigan State-Notre Dame game, drawing the largest regular season college football audience to this telecast of the nation's two leading college football teams, ABC-TV also will be providing, for the first time in color, the exclusive coverage in 1968 of the Winter Olympics from Grenoble, France and the Summer Olympics from Mexico City.

Noteworthy among the network's special programs was "Brigadoon," starring Robert Goulet and Sally Ann Howes. In preparation for forthcoming telecasts are original two-hour adaptations of theatre classics; two memorable musicals, "Carousel" and "Kismet"; and twelve programs on oceanography under the direction of the world-famous underseas explorer Jacques Yves Cousteau. Also scheduled to begin in April, 1967 is the network's entry in late evening programming featuring Joey Bishop, one of this country's top comedy talents.

[3540] TELEVISION

ABC Owned Television Stations

The ABC Owned Television Stations are located in five of the seven leading markets in the United States—WABC-TV, New York; WXYZ-TV, Detroit; WBKB-TV, Chicago; KABC-TV, Los Angeles and KGO-TV, San Francisco. Currently, all of these stations are equipped to originate local programs in color.

The stations achieved their best level in sales in 1966. They have established important positions in their respective communities, providing the public with entertainment and public affairs programs. These stations actively participated in the affairs of these communities through expanded local news operations, special programs of particular local interest and a policy of editorializing on vital local issues.

Local station programming and community involvement took many forms during this past year. In New York, for example, WABC-TV produced "Who Will Tie My Shoe," a documentary on mental retardation which received five major

awards. In an effort to bring the unemployed closer to existing job opportunities, KABC–TV in Los Angeles organized a highly successful three-day "Career Trade Show" which was attended by over 100,000 people. Station WXYZ-TV, in cooperation with radio station WXYZ, initiated a drive to eradicate childhood measles. Through their editorials, the stations alerted the state legislature to the dangers of measles and thereby aided in passing a state law requiring inoculation for all pre-school children. The stations then launched a campaign to encourage inoculations. More than 170,000 children were inoculated on October 23rd, the largest known single mass measles inoculation pro-[3541]gram. Most encouragingly, medical authorities reported a 90% reduction in the number of cases of measles in the greater Detroit area during this past winter season.

ABC International

ABC International acts as purchasing and sales representative for foreign television stations known as the Worldvision group, consisting of more than sixty stations located in twenty-six countries. Minority interests are held in a number of television stations abroad.

Television world-wide continues to grow each year. Today, there are over one hundred nations with television service. The greater utilization of satellites along with the construction of receiving and transmitting stations in key world centers can be expected to further the development of television as a global medium. ABC International, through its extensive associations with stations throughout the world, can also be expected to benefit.

ABC Films

ABC Films increased its total revenues from television programs distributed to television stations in this country and abroad. Domestic sales included many popular shows that had concluded their network run as well as other properties. In the international area, its programs were sold in over eighty foreign markets.

During the past year, ABC Films extended its distribution in markets throughout the United States of its own production, "Virginia Graham's Girl Talk," the longest running syndicated program telecast on a five-day-per-week basis.

[3542] RADIO

ABC Radio Network

The ABC Radio Network, with its 414 affiliated stations, is one of four major radio networks in the country. Greater interest has been shown by the public and advertisers in the radio medium in recent years. The ABC Radio Network has benefited from this development with its sales again exceeding the previous year's level.

A highlight of its entertainment programming is Don McNeill's "Breakfast Club" which continued to enjoy great popularity as it completed its 33rd consecutive year of broadcasting. The network's coverage of major sporting events, featuring such leading sportscasters as Tom Harmon, Chris Schenkel, Howard Cosell and Keith Jackson, included the complete Notre Dame college football schedule.

The network has been particularly effective in its programming of radio network news designed specifically for a growing radio audience both in and away from the home. Comprehensive news coverage was supplemented by a number of documentaries which included, for example, "The Eagle and the Bear"—a thirteen week series tracing United States and Soviet relations since World War II.

ABC Owned Radio Stations

The ABC owned Radio Stations, providing both AM and FM service, are located in six of the eight leading markets in the country—WABC, New York; WXYZ, Detroit; WLS, Chicago; KABC, Los Angeles; KGO, San Francisco and KQV, Pittsburgh.

These stations had their best sales year in 1966 and [3543] have maintained strong competitive positions in their markets.

They have received many awards and commendations for the calibre of their local programming and for their constructive involvement in community affairs.

The policy of the stations of broadcasting frequent and vigorous editorial viewpoints on issues facing their communities has created interest among civic leaders and listeners alike. Station KGO in San Francisco was instrumental in creating a publicly supported ambulance service for Marin County. The station's editorials also caused legislators to initiate a study of the state's laws regulating ambulance services throughout California. Some community and social problems of large metropolitan areas are often of such magnitude as to demand special efforts. Station WLS, recognizing the problem of high school dropouts in Chicago and the need to develop employment opportunities for them, enlisted broad community support for a major campaign. This program, "Target Dropout," strongly assisted by the Chicago Daily News, was considered one of the most outstanding community campaigns ever undertaken in that area.

FM station facilities and programming hours were expanded in Los Angeles, San Francisco, Detroit and Pittsburgh in 1966. All six Owned FM Stations now schedule programming which is distinct from their AM counterpart for at least half of the broadcast schedule to comply with new FCC regulations. The type of programming offered by the FM stations varies from "all news" twenty-four hours a day on KABC–FM in Los Angeles to the stereo sound of music and personalities on WXYZ–FM in Detroit and KQV–FM in Pittsburgh.

[Federal Communications Commission Exhibit No. J-271; presented by Justice Department]

[3552]

ABC financial data, 1959-66

	1959	1960	1961	1962	1963	1964	1965	1966
Total Revenues	$287,957,000	$334,437,000	$363,085,000	$379,741,000	$386,729,000	$420,916,000	$476,465,000	$539,972,000
Growth in Total Revenues (percent)	....	16.2	8.6	4.6	1.8	8.8	13.2	13.3
Broadcast Revenues	172,469,000	222,439,000	254,280,000	274,523,000	280,572,000	310,135,000	361,631,000	413,684,000
Growth in Broadcast Revenues (percent)	....	29.0	14.3	8.0	2.2	10.6	16.6	14.4
Operating Earnings	7,967,000	10,475,000	9,906,000	10,757,000	7,385,000	11,019,000	16,721,000	17,860,000
Total Earnings (incl. capital items)	8,164,000	11,817,000	15,030,000	11,039,000	7,927,000	11,196,000	15,565,000	18,066,000
Cash Generated*	14,616,000	18,291,000	21,252,000	17,183,000	14,397,000	17,901,000	22,675,000	26,622,000
End Year Working Capital	52,034,000	64,833,000	65,941,000	69,126,000	69,142,000	72,103,000	93,772,000	91,776,000
End Year Net Tangible Assets**	71,599,090	83,909,629	88,512,065	93,985,961	97,052,000	104,000,000	113,847,000	123,827,000
End Year Long-Term Debt	56,805,000	53,423,000	51,670,000	52,770,000	49,304,000	46,559,000	62,030,000	87,897,000

*Earnings plus depreciation.

**Total assets less intangibles less total liabilities

Source: ABC Annual Reports, 1960-1966.

[Federal Communications Commission Exhibit No. J–272; presented by Justice Department]

[3553] *ABC television broadcasting revenues and profits, 1961–65 as stated in ABC filings with the Federal Communications Commission (Forms 324)*

Network and Owned and Operated Stations	1961		[illegible]		1963		1964		1965	
	Revenues	Profits	Revenues	Profits	Revenues	Profits	Revenues	Profits	Revenues	Profits
Network	160,977,619	4,707,212	167,432,232	3,335,639	166,750,075	(4,573,202)	179,489,498	(8,410,184)	215,042,502	(5,826,960)
New York	10,176,689	5,415,664	11,216,520	6,047,407	12,511,558	5,514,681	16,093,092	6,965,563	18,959,970	8,711,859
Chicago	8,101,206	2,818,971	9,378,503	3,443,408	10,435,175	3,770,405	12,345,346	4,594,007	12,481,359	3,899,512
Detroit	4,998,219	1,563,907	5,760,684	1,911,212	5,923,732	1,769,705	7,851,103	2,874,905	8,538,805	3,115,960
San Francisco	4,474,777	1,517,969	5,602,040	1,888,909	6,585,902	2,400,479	8,339,592	3,223,459	9,556,830	4,071,018
Hollywood (L.A.)	6,852,843	2,945,253	8,199,699	3,586,636	7,582,827	2,741,987	11,016,801	4,232,484	13,832,030	5,652,175
Total	195,581,313	18,463,976	207,589,678	20,213,211	209,789,267	11,624,055	235,135,432	13,480,234	278,411,496	19,823,564

[Federal Communications Commission, Exhibit No. J–273; presented by Justice Department]

[3554] BROADCASTING, THE BUSINESS WEEKLY OF TELEVISION AND RADIO, FEBRUARY 6, 1967, VOL. 72, NO. 6]

WHAT PARTICIPATIONS REALLY COST

NEW RESEARCH SERVICE PEGS AVERAGE PRICES PAID FOR MINUTES IN EVERY TELEVISION NETWORK PROGRAM; ALSO REPORTED: UPSURGE IN TOTAL NETWORK BUSINESS

Network television business in January was moving at a rate of more than $33 million a week, exceeding $132 million in the first 29 days of the month—a total that appeared to be well ahead of sales for the full month of January a year ago.

CBS–TV's 29-day January total was put at $53.3 million, NBC–TV's at $43.6 million and ABC–TV's at $35.2 million (see table this page).

A COMPARISON OF NETWORK TOTALS FOR JANUARY

Here's how network television business stacked up for the week ended Jan. 29 and for the entire month through that date, according to estimates compiled by Broadcast Advertisers Reports.

These totals, pulled together from commercial data based on monitoring and cost estimates compiled from networks and agencies (for program-by-program list, see page 24), show by principal day-parts and by full-day totals the estimated revenues of each network and of the three combined.

Figures in left-hand column under each heading are for week of Jan. 23–29; right-hand figures are for Jan. 1–29. The blank in top line of ABC column is explained by an 11 a.m. Monday–Friday sign-on time.

BAR estimates of week ended Jan. 29, and cume for January 1967 (add 000)

Day Parts	ABC		CBS		NBC		TOTALS	
	W/E 1/29	Cume	W/E 1/29	Cume	W/E 1/29	Cume	W/E 1/29	Cume
Sign-on-10 A.M. M-F	......	......	$130	$448	$229	$994	$359	$1,442
10 A.M.-6 P.M. M-F	$1,556	$6,298	3,590	14,491	1,672	8,075	6,818	28,864
Sign-on-6 P.M. St-Sn	817	3,294	578	6,863	330	3,401	1,725	13,558
6-7:30 P.M. M-Sn	653	1,956	911	4,829	841	4,137	2,405	10,922
7:30-11 P.M. M-Sn	5,906	23,432	6,056	26,497	6,120	25,590	18,082	75,519
11 P.M.-sign-off M-Sn	36	249	37	187	366	1,374	440	1,810
Network totals	8,967	35,230	11,302	53,314	9,558	43,571	29,828	132,114

Totals may not add due to rounding.

These estimates were made available last Thursday by Broadcast Advertisers Reports as drawn from a new BAR weekly service, based on monitoring, that details corporate and brand advertising on a minute-by-minute, network-by-network basis and also estimates its cost. The figures represent revenues covering both time and talent (before agency commissions).

BAR also made public, for the first time, estimates of the average commercial-minute price being charged on each program on each network—a price list that, reflecting trends in progress over the past several years, shows wide fluctuation not only among networks but between time periods on the same network. (For complete list of price estimates for both nighttime and daytime programs, see pages 24, 25 and 28).

Close to Truth—Authorities at all three networks conceded that BAR's average-minute cost estimates were "very close" to the prices actually charged.

They were compiled, according to BAR Chairman Phil Edwards and President Robert Morris, over a period of months by cross-checking—and double checking—estimates gathered from both network and agency sources, including in many cases competing network salesmen and agencies that were offered programs and didn't buy, as well as those that did.

BAR's new network service is one of two that sprang up the first of the year to replace the single service that had provided similar data on network TV advertising in the past. The old service was supplied in the name of LNA/BAR as a cooperative project of Leading National Advertisers and BAR. When that was discontinued, LNA as well as BAR leaped to fill the breach,

and both are now providing weekly services that observers say are generally comparable.

The emergence of two services has created a special problem for the Television Bureau of Advertising, which subscribed to the LNA/BAR service for the figures that TVB regularly makes public on network TV advertising and network billings. TVB officials said late last week they were still negotiating with both of the new services.

Among the networks, CBS-TV has subscribed to BAR's new service, while ABC-TV and NBC-TV are said to have subscribed to both BAR's and LNA's.

Comparison—BAR's estimate of $132,114,400 as total revenues (net time and talent) of the three TV networks for the first 29 days of January may be compared to the LNA/BAR service's estimate of $122,547,500 for the full month of January 1966—although research authorities asserted that the two figures, having been compiled under different auspices, should not be regarded as directly comparable.

They agreed, however, that network business for January this year had run ahead of the previous January's.

BAR's report for the full month is due to be published this week. BAR also plans to present quarterly as well as the weekly and monthly reports. Officials said the weekly reports would be distributed on Thursday for the week ended the preceding Sunday.

Its report as of Jan. 29 showed the total divided as follows by major day-parts (all times are New York time): from sign-on to 6 p.m., $43,864,000; from 6 to 7:30 p.m., $10,922,000; from 7:30 to 11 p.m., $75,519,000, and after 11 p.m., $1,810,000 (for more detailed breakdown, see table).

BAR's estimates of commercial-minute costs for individual programs were notable for the variations they showed, not because fluctuations are new but because they rarely—and probably never—have been made public before in one mass display covering the entire schedules of all three networks.

New Rate System—The policy of pricing different periods differently has developed over a period of many years with the trend toward the sale of one-minute participations rather than program sponsorships. Within the past year all three networks

have announced major rate-card overhauls to reflect the changes in buying and selling patterns.

[3555] A PROFUSION OF PRICE TAGS ON NETWORK MINUTES

What are advertisers paying for a minute of commercial time on the TV networks these days?

Here, program by program, network by network, daytime as well as nighttime, are prices compiled by Broadcast Advertisers Reports as part of a new weekly service. The figures represent BAR's estimates of the average cost of one commercial minute, including time and talent costs, in each regularly scheduled program, and network authorities say they're close to the actual going prices (also see story page 23).

The networks traditionally make such prices available to clients and prospects "on request" but have never themselves made public a full-schedule price list. With a few exceptions made necessary by preemptions of regularly scheduled programs and one new show introduced later, the figures below came from BAR's report for the week ended Jan. 22; the rest came from BAR reports for other January weeks.

The listings here show prime-time programs—Monday through Sunday. They are followed by Monday-through-Friday, Saturday and Sunday daytime programs. Where specials preempted regular programs regular programs are shown in parentheses.

Monday

6–6:30—ABC *Peter Jennings News* $9,500.

7–7:30—CBS *CBS Evening News* $26,900; NBC *Huntley-Brinkley Report* $21,000.

7:30–8—ABC *Iron Horse* $38,500; CBS *Gilligan's Island* $37,000; NBC *Monkees* $43,500.

8–8:30—ABC *Iron Horse* $38,500; CBS *Mr. Terrific* $45,000; NBC *I Dream of Jeannie* $46,500.

8:30–9—ABC *Rat Patrol* $46,500; CBS *Lucy* $65,500; NBC *Captain Nice* $30,000.

9–9:30—ABC *Felony Squad* $44,000; CBS *Andy Griffith* $56,000; NBC *Road West* $45,000.

9:30–10—ABC *Peyton Place I* $45,000; CBS *Family Affair* $52.000; NBC *Road West* $45,000.

10–10:30—ABC *Big Valley* $41,000; CBS *State of the Union Republican View* sust. (preempted *To Tell the Truth* $31,000); NBC *Run for Your Life* $41,000.

10:30-11—ABC *Big Valley $41,000;* CBS *CBS News Special* sust. (preempted *I've Got a Secret* $31,000); NBC *Run for Your Life* $41,000.

11:30-12—NBC *Tonight* $12,300.

Tuesday

6-6:30—ABC *Peter Jennings News* $9,500.

7-7:30—CBS *CBS Evening News* $26,900; NBC *Huntley-Brinkley Report* $21,000.

7:30-8—ABC *Combat* $37,000; CBS *Daktari* $43,000; NBC *Girl from U.N.C.L.E.* $39,000.

8-8:30—ABC *Combat* $37,000; CBS *Daktari* $43,000; NBC *Girl from U.N.C.L.E.* $39,000.

8:30-9—ABC *Invaders* $44,000; CBS *Red Skelton* $62,000; NBC *Occasional Wife* $45,000.

9-9:30—ABC *Invaders* $44,000; CBS *Red Skelton* $62,000; NBC *Tuesday Night at the Movies* $41,000.

9:30-10—ABC *Peyton Place II* $42,500; CBS *Petticoat Junction* $51,000; NBC *Tuesday Night at the Movies* $41,000.

10-10:30—ABC *Fugitive $48,000;* CBS *CBS News Special—The Italians* $35,000; NBC *Tuesday Night at the Movies* $41,000.

10:30-11—ABC *Fugitive $48,000;* CBS *CBS News Special—The Italians* $35,000; NBC *Tuesday Night at the Movies* $41,000.

11:30-12—NBC *Tonight* $12,300.

Wednesday

6-6:30—ABC *Peter Jennings News* $9,500.

7-7:30—CBS *CBS Evening News* $26,900; NBC *Huntley-Brinkley Report* $21,000.

7:30-8—ABC *Batman I* $40,000; CBS *Cinderella* $52,000 (preempted *Lost in Space* $32,500); NBC *Virginian* $40,500.

8-8:30—ABC *Monroes* $36,000; CBS *Cinderella* $52,000; (preempted *Lost in Space* $32,500); NBC *Virginian* $40,500.

8:30-9—ABC *Monroes* $36,000; CBS *Cinderella* $52,000 (preempted *Beverly Hillbillies* $57,900); NBC *Virginian* $40,500.

9-9:30—ABC *Wednesday Night Movies* $40,000; CBS *Green Acres* $54,600; NBC *Bob Hope Christmas Show* $85,000 (preempted *Chrysler Theater* $50,000).

9:30-10—ABC *Wednesday Night Movies* $40,000; CBS *Gomer Pyle-USMC* $55,000; NBC *Bob Hope Christmas Shop* $85,000 (preempted *Chrysler Theater* $50,000).

10-10:30—ABC *Wednesday Night Movies* $40,000; CBS *Danny Kaye* $38,000; NBC *Bob Hope Christmas Show* $85,000 (preempted *I Spy* $45,000).

10:30-11—ABC *Wednesday Night Movies* $40,000; CBS *Danny Kaye* $38,000; NBC *Barrump Bump Show* $60,000 (preempted *I Spy* $45,000).

11:30-12—NBC *Tonight* $12,300.

Thursday

6-6:30—ABC *Peter Jennings News* $9,500.

7-7:30—CBS *CBS Evening News* $26,900; NBC *Huntley-Brinkley Report* $21,000.

7:30-8—ABC *Batman II* $40,000;

[Federal Communications Commission Exhibit No. J-274; presented by Justice Department]

[3558] AMERICAN BROADCASTING COMPANIES, INC.

AMERICAN BROADCASTING COMPANIES, INC.
AND SUBSIDIARY COMPANIES

PARENT COMPANY AND CONSOLIDATED FINANCIAL STATEMENTS,

JANUARY 1, 1966

[3559] PRICE WATERHOUSE & CO.,
New York, Februry 21, 1966.

To the Board of Directors of American Broadcasting Companies, Inc.:

In our opinion, the accompanying statements present fairly the financial position of American Broadcasting Companies,

Inc. (parent company) and the consolidated financial position of American Broadcasting Companies, Inc. and its subsidiaries at January 1, 1966 and the results of their operations for the year, in conformity with generally accepted accounting principles applied on a basis consistent with that of the preceding year. Our examination of these statements was made in accordance with generally accepted auditing standards and accordingly included such tests of the accounting records and such other auditing procedures as we considered necessary in the circumstances.

PRICE WATERHOUSE CO.

[3560] *American Broadcasting Companies, Inc.*

[Financial position—Parent company]

	January 1, 1966	January 2, 1965
ASSETS		
Current assets:		
Cash	$12,599,000	$12,970,000
United States Government securities at cost (approximate market) and certificates of deposit	13,082,000	290,000
Accounts and notes receivable less reserves:		
Trade	41,763,000	34,940,000
Other	499,000	400,000
Program rights production costs and advances less amortization (see Note B)	43,021,000	35,268,000
Prepaid expenses	358,000	350,000
Total current assets (excluding the portion of advances to subsidiary and associated companies collectible within one year)	111,322,000	84,218,000
Investments and other assets, less reserves:		
Subsidiary companies consolidated (see Note C)	76,363,000	76,070,000
Associated companies, at cost	11,088,000	10,335,000
Notes and accounts receivable due after one year	570,000	264,000
Miscellaneous investments (see Note H)	1,782,000	1,927,000
Deposits to secure contracts	30,000	7,000
Deferred charges	598,000	563,000
	90,431,000	89,166,000
Property and equipment:		
Land, at cost	2,009,000	2,009,000
Buildings, equipment and leaseholds, at cost	36,276,000	30,870,000
Less—Accumulated depreciation and amortization	(13,593,000)	(12,277,000)
	24,692,000	20,602,000
Intangibles, at cost	6,761,000	6,761,000
Total assets	$233,206,000	$200,747,000

[3560] *American Broadcasting Companies, Inc.*—Continued

[Financial position—Parent company]

	January 1, 1966	January 2, 1965
[3561]		
LIABILITIES AND STOCKHOLDERS' EQUITY		
Current liabilities:		
Accounts payable and accrued expenses	$38,014,000	$31,077,000
Federal taxes on income	3,522,000	3,021,000
Notes and mortgages payable within one year	1,289,000	30,000
Total current liabilities	42,825,000	34,128,000
Long-term debt:		
Notes issued under Loan Agreement (see Note E)	58,500,000	42,500,000
Other notes and mortgages	212,000	244,000
Other liabilities:		
Deferred income (see Note F)	1,636,000	1,589,000
Deferred incentive plan compensation (see Note G)	546,000	382,000
Miscellaneous	1,815,000	2,329,000
Total liabilities	105,534,000	81,172,000
RESERVE FOR LOSSES ON COLLECTION OF NOTES HELD BY SUBSIDIARY COMPANIES	180,000	180,000
Stockholders' equity:		
Common stock, $1 par value (see Note H)	4,682,000	4,624,000
Capital in excess of par value (see Note I)	60,194,000	58,676,000
Retained earnings (see Note J)	62,616,000	56,095,000
	127,492,000	119,395,000
	$233,206,000	$200,747,000

[3562] *American Broadcasting Companies, Inc.*

[Parent company]

	1965 (52 weeks)	1964 (53 weeks)
EARNINGS		
Revenues:		
Television and radio time and program sales, less discounts and commissions to advertising agencies	$345,200,000	$293,648,000
Dividends from subsidiary companies	6,416,000	10,134,000
Dividends from associated companies	87,000	84,000
Other revenues	4,241,000	4,034,000
	355,944,000	307,900,000

American Broadcasting Companies, Inc.—Continued

[Parent company]

	1965 (52 weeks)	1964 (53 weeks)
EARNINGS—continued		
Expenses:		
Operating, selling and administrative expenses	$329,162,000	$283,763,000
Depreciation and amortization of buildings, equipment and leaseholds	3,545,000	2,954,000
Interest expense	2,175,000	1,870,000
State, local and payroll taxes	3,052,000	2,575,000
Provision for Federal income tax which, when added to amounts provided by subsidiaries, will aggregate the amount estimated on a consolidated return basis	4,351,000	2,980,000
	342,285,000	294,142,000
Earnings from operations	13,659,000	13,758,000
Capital and nonrecurring losses, net, after applicable Federal income tax	(176,000)	(6,000)
Earnings for the year	13,483,000	13,752,000
Retained earnings at beginning of year	56,095,000	47,855,000
	69,578,000	61,607,000
Less—Dividends—$1.50 per share (1964, $1.20 per share)	6,962,000	5,512,000
Retained earnings at end of year	$62,616,000	$56,095,000

[3563] *American Broadcasting Companies, Inc. and subsidiary companies*

[Consolidated financial position]

	January 1, 1966	January 2, 1965
ASSETS		
Current assets:		
Cash	$26,530,000	$27,235,000
United States Government securities, at cost (approximate market), and certificates of deposit	20,729,000	5,710,000
Accounts and notes receivables, less reserves:		
Trade	49,064,000	40,845,000
Other	2,670,000	3,348,000
Program rights, production costs and advances, less amortization (see Note B)	50,750,000	41,654,000
Inventory of merchandise and supplies, at cost or less	2,597,000	2,336,000
Prepaid expenses	1,459,000	1,500,000
Total current assets	153,799,000	122,628,000
Investments and other assets, at cost, less reserves:		
Associated companies	12,815,000	12,092,000
Notes and accounts receivable due after one year	1,132,000	792,000
Miscellaneous investments (see Notes D and H)	2,799,000	3,094,000
Deposits to secure contracts	601,000	660,000
Deferred charges	1,512,000	1,704,000
	18,859,000	18,342,000

American Broadcasting Companies, Inc. and subsidiary companies—Continued

	January 1, 1966	January 2, 1965
ASSETS—continued		
Property and equipment:		
Land, at cost	$24, 465, 000	$24, 847, 000
Buildings, equipment and leaseholds, at cost	92, 952, 000	91, 810, 000
Less—Accumulated depreciation and amortization	(43, 125, 000)	(46, 480, 000)
	74, 292, 000	70, 177, 000
Intangibles, at cost	15, 827, 000	15, 493, 000
	$262, 777, 000	$226, 640, 000
[3564]		
LIABILITIES AND STOCKHOLDERS' EQUITY		
Current liabilities:		
Accounts payable and accrued expenses	$49, 366, 000	$41, 450, 000
Federal taxes on income	8, 886, 000	8, 556, 000
Notes and mortgages payable within one year	1, 775, 000	519, 000
Total current liabilities	60, 027, 000	50, 525, 000
Long-term debt:		
Notes issued under Loan Agreement (see Note E)	58, 500, 000	42, 500, 000
Other notes and mortgages	3, 530, 000	4, 059, 000
Other liabilities:		
Deferred income	5, 191, 000	4, 985, 000
Deferred incentive plan compensation (see Note G)	546, 000	[illegible]
Miscellaneous	5, 311, 000	4, 696, 000
Total liabilities	133, 105, 000	107, 147, 000
Stockholders' equity:		
Common stock, $1 par value (see Note H)	4, 682, 000	4, 624, 000
Capital in excess of par value (see Note I)	63, 080, 000	61, 562, 000
Retained earnings (see Note J)	61, 910, 000	53, 307, 000
	129, 672, 000	119, 493, 000
	$262, 777, 000	$226, 640, 000

[3565] *American Broadcasting Companies, Inc. and subsidiary companies*

	1965 (52 weeks)	1964 (53 weeks)
CONSOLIDATED EARNINGS		
Revenues:		
Television and radio time and program sales, less discounts and commissions to advertising agencies	$361,631,000	$310,135,000
Theatre admissions, rentals and vending profits	80,982,000	78,891,000
Merchandise and record sales, publishing and other revenues	33,852,000	31,889,000
	476,465,000	420,915,000
Expenses:		
Operating expenses, cost of merchandise sold and selling and administrative expenses	430,131,000	382,160,000
Depreciation and amortization of buildings, equipment and leaseholds	7,110,000	6,705,000
Interest expense	2,395,000	2,095,000
State, local and payroll taxes	7,908,000	7,721,000
Federal income tax	13,200,000	11,215,000
	460,744,000	409,896,000
Earnings from operations	15,721,000	11,019,000
Capital and nonrecurring gains (losses), net, after applicable Federal income tax	(156,000)	177,000
Earnings for the year	15,565,000	11,196,000
Retained earnings at beginning of year	53,307,000	47,623,000
	68,872,000	58,819,000
Less—Cash dividends—$1.50 per share (1964, $1.20 per share)	6,962,000	5,512,000
Retained earnings at end of year	$61,910,000	$53,307,000

[3566] American Broadcasting Companies, Inc.—Notes to Financial Statements January 1, 1966

NOTE A—CONSOLIDATION POLICY

The consolidated financial statements include the accounts of the Company and all domestic subsidiaries owned 75% or more.

NOTE B—PROGRAM RIGHTS, PRODUCTION COSTS AND ADVANCES

Program rights, production costs and advances represent principally the amounts paid less the amounts charged to operations on the basis of use for network programs, by systematic

amortization over the rental periods for local station programs, and proportionately on the basis of earned revenues to estimated ultimate revenues for costs of programs distributed to others.

NOTE C—INVESTMENTS IN SUBSIDIARY COMPANIES CONSOLIDATED

Investments in subsidiaries acquired at inception of the Company are principally carried at the net underlying book value at such date. Investments in subsidiaries partly owned at inception of the Company which have since become wholly owned and investments in other subsidiary companies are carried at cost.

NOTE D—MISCELLANEOUS INVESTMENTS

Miscellaneous investments in the statement of consolidated financial position included $1,204,000, the carrying value of unliquidated investments in certain theatres sold since the inception of the Company. The sales prices aggregating $8,042,000, of which $6,378,000 remained uncollected, are payable in instalments, mainly in variable contingent amounts, to 1981. The difference between the uncollected portion and the carrying value represents a contingent profit which will be reflected in earnings proportionately over future years as additional instalments of the sales prices are collected.

NOTE E—NOTES ISSUED UNDER LOAN AGREEMENT

Under the loan agreement of March 25, 1965, an additional $9,000,000 will be taken down on July 1, 1966. The notes bear interest at 4.55% per annum and are payable semiannually, $1,250,000 to January 1, 1971, $1,625,000 to January 1, 1985 and $10,750,000 on July 1, 1985.

[3567] NOTE F—DEFERRED INCOME

In 1958 the Company sold to a consolidated subsidiary, at par, an account receivable (arising from a sale in a prior year) of which $1,730,000 remained unpaid at January 1, 1966. The

... profit on this sale, $1,549,000 at January 1, 1966, is ... the statement of financial position of the Company ... liabilities—deferred income and will be taken into ... of the Company proportionately as payments are ... the subsidiary on account of the sales price. The ... is obligated to reacquire from its subsidiary any un- ... of the receivable in the event of default.

NOTE G—DEFERRED INCENTIVE PLAN COMPENSATION

Under the Plan, the amount (based on earnings) to be credited to the reserve, the employees who are to participate and the amount of incentive compensation awards are recommended by the Key Employees Incentive Plan Committee and determined by a majority of the members of the Board of Directors who are not eligible to receive awards. In May, 1965, the stockholders approved an amendment to the Plan to provide that all or part of the amount contingently credited to an employee could be credited in shares of Common Stock of the Corporation and that the Company may accumulate treasury stock for this purpose. The balance at January 1, 1966 represents the deferred amounts credited to the participants and the unallocated reserve, less estimated applicable reduction in future Federal income taxes.

NOTE H—COMMON STOCK

At January 1, 1966, there were 10,000,000 shares of common stock authorized. Of 4,681,896 shares issued, 11,030 shares, at a cost of $628,202 included in miscellaneous investments, are held in treasury for the purposes of the Key Employees Incentive Compensation Plan.

Under stock option plans, 336,883 shares of common stock are reserved for issuance to employees. Under the Qualified Stock Option Plan, which was approved by the stockholders on May 18, 1965, there were options outstanding on January 1, 1966 for 142,500 shares at prices ranging from $54.50 to $67.625 per share. The options are exercisable during a period of five years from date of issuance cumulatively to the extent of 25%

of the number of shares at the end of each of the first, second, third and fourth years from date of issuance. Options for an additional 107,500 shares may be granted.

Under the Restricted Stock Option Plan, which was terminated on May 18, 1965, there were options outstanding on January 1, 1966 for 86,883 shares at prices ranging from $23.041 to $44.204 per share. The options are exercisable during a period of seven years from date of issuance cumulatively to the extent of 25% of the number of shares at the end of each of the second, fourth, fifth and sixth years from date of issuance. During 1965, options for 58,348 shares were exercised at prices ranging from $23.041 to $40.754 per share.

NOTE I—CAPITAL IN EXCESS OF PAR VALUE

During the year, capital in excess of par value increased by $1,518,000 representing the excess of proceeds over par value of common shares issued upon exercise of stock options.

[3568] ### NOTE J—RETAINED EARNINGS

The loan agreement provides certain restrictions on the Company in declaring or paying dividends (other than in shares of capital stock of the Company) or in making any purchase or redemption of capital stock of the Company. Of the consolidated retained earnings at January 1, 1966, approximately $25,000,000 was not so restricted.

NOTE K—RETIREMENT PLANS

During 1965, $963,000 was charged to consolidated operations under contributory retirement plans established in 1964 and 1965 covering the employees of the Company and certain of its consolidated subsidiaries. The Company and its consolidated subsidiaries are funding the past service cost over a period of thirty years from inception of the plans. As of January 1, 1966, the unfunded past service cost was estimated at $6,200,000.

It is contemplated that during 1966 additional contributory retirement plans will be adopted covering employees of certain other consolidated subsidiaries. It is estimated that the unfunded past service cost of such plans, to be funded over thirty years, will be $5,500,000 and the annual cost $515,000.

The Company and its consolidated subsidiaries also charge to operations the payments required to be made to various union retirement funds in accordance with the applicable collective bargaining agreements.

NOTE L—LONG-TERM LEASES

Minimum annual rentals under 314 leases for real property in effect at January 1, 1966 amounted to $7,126,000 for the Company and its consolidated subsidiaries, which is summarized according to lease expiration periods: 1966–1968, $1,162,000; 1969–1973, $2,100,000; 1974–1978, $1,142,000; 1979–1983, $506,000 and subsequent to 1983, $2,216,000. The foregoing includes rental for the Company's new headquarters building under a lease which became effective January 1, 1966. The Company will become the owner of the ground lease and the building, if it exercises a purchase option which it holds. Total rent, including rentals based on a percentage of receipts, charged to operations in 1965 amounted to $6,850,000.

NOTE M—CONTINGENT LIABILITIES

There are contingent liabilities under pending litigation, including antitrust suits to which some of the companies in the motion picture industry are also defendants.

The Company has guaranteed a $3,150,000 bank loan to an associated company, whose other stockholder is responsible to the Company for one half of the guarantee.

The Company has an obligation to the sellers of The Prairie Farmer Publishing Company measured by a percentage of earnings of that company and its subsidiaries over the next three months. Any payment will represent additional intangibles not presently subject to amortization.

[3569] NOTE N—MERGER

On February 14, 1966, the Boards of Directors of American Broadcasting Companies, Inc. and International Telephone and Telegraph Corporation approved a contract covering the merger of the two companies.

Under the agreement of merger, ITT will issue .5719 of a share of common stock and .5719 of a share of new convertible preference stock for each share of ABC common stock. The preference stock will be convertible on a share-for-share basis into ITT common stock and will carry a dividend, which is cumulative, equal to twice the dividend on ITT's common stock, but not less than $2.40 per share. This new convertible preference stock cannot be called for ten years. In the eleventh year, the initial redemption price is $150 per share and will decrease thereafter at the rate of $5 each year to a minimum of $100. There are also antidilution provisions.

The consummation of the merger is subject to the approval of the stockholders of each company, the Federal Communications Commission and obtaining a favorable tax ruling.

[Federal Communications Commission Exhibit No. J-286; presented by Justice Department]

[3601] SEPTEMBER 7, 1966.

Personal

Memorandum to Mr. Gerrity.

NED: Talked with Leonard Goldenson this morning and he has in mind approaching some individuals for his Board from time to time as people retire.

He suggested, and we agreed, that he would let us have any of these names before there is any commitment so that any embarrassment could be avoided if there were any problems.

Two names which he has suggested are:

Bernie Mason, President, Union Carbide

Charlie Fisher, Jr., President, Detroit National Bank

Would you get a rundown on both of these people so that we

can see what their tie-ins and connections are, so we can judge any problems, and any other information you can pick up.

H. S. GENEEN.

[Federal Communications Commission Exhibit No. J–289; presented by Justice Department]

[3605] THERE'S EXTRA VALUE IN AN ABC–TV HOME

NIELSEN NATIONAL OCTOBER 11 REPORT

Hal Geneen—In keeping with our philosophy of the young family approach—Leonard

When you stack up the typical viewing home on all three networks, ABC–TV's has a decided marketing plus: *It's younger by every measurement*. And, as every astute advertiser knows, it's the younger home that purchases and consumes more of most products.

ABC–TV delivers network television's highest incidence of these prime consumers, according to the latest Nielsen national. This holds true for both men and women in both younger categories—18–34 and 35–49 years of age.

Viewers per 100 homes Monday–Sunday, 7:30–11 pm all commercial time period

	ABC	CBS	NBC
Women:			
18–34	*31*	26	26
35–49	*24*	22	23
Men:			
18–34	*22*	19	20
35–49	*19*	17	*19*

Other individual program "younger" highlights in the report include:

ABC's SUNDAY NIGHT MOVIE is the top-ranked program among women 18–49 for the second consecutive national report. It is also second-ranked among younger men.

[Federal Communications Commission Exhibit No. J-290; presented by Justice Department]

Robert H. Kenmore

FIRST CHOICE OF YOUNG ADULTS

Nielsen Television Index
Two Weeks Ending Oct. 9, 1966

PEERLESS IN PRIME TIME

The new Nielsen Television Index (NTI, Oct. I) includes audience composition data for the first time. These data show ABC-TV leading the competition in several important respects:

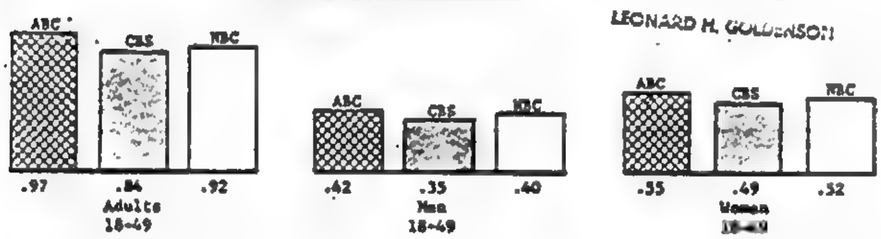
Richest Concentration of Young Adults (18-49)

An "ABC-TV home" is worth more to the advertiser seeking to reach younger adults -- the people toward whom prime time advertising budgets are primarily directed.

-----15.5% more than the "CBS home"
------5.4% more than the "NBC home"

RECEIVED
OCT 31 1966
LEONARD H. GOLDENSON

Viewers Per Set
Monday-Sunday, 7:30-11:00 PM



Out in Front Among the Top 40

NTI, Oct I, '66.

An even more significant indication of ABC-TV superiority in delivering this key market category is its dominance among the top 40 programs. ABC-TV has more programs in the top 40 in terms of actual viewers 18-49:

Top 40 Programs Adults 18-49	
ABC	16
CBS	13
NBC	11

NTI, Oct. I, '66

The ABC programs in the top 40 and their young adult audiences (000 omitted) include: Sunday Night Movie (16,530), Rat Patrol (12,070), The FBI (11,560), Bewitched (11,200), The Felony Squad (10,860), Voyage to the Bottom of the Sea (10,230), The Fugitive (9,560), That Girl (9,260), Iron Horse (9,260), Peyton Place (Mon.) (9,210), Combat (9,130), Pruitts (9,030), Peyton Place (Wed.) (8,840), F Troop (8,780), Love on A Rooftop (8,680), Big Valley (8,650).

J-290

[Federal Communications Commission Exhibit No. J-298; presented by Justice Department]

[3681] Hal Geneen: 1st national Nielsen—We are close because of River Quai—our estimate—we will be close on 30 market for remainder of this year—but about 2½ rating points be-

hind nationally. With changes in January we will close the gap on a national basis—and possibly pull ahead on 30 market.

LEONARD.

[3682]

All commercial time periods—Monday–Sunday, 7:30–11:00—Nighttime trend

Period ending	ABC		CBS		NBC	
	Rtg	Share	Rtg	Share	Rtg	Share
Sept. 1 1966:						
Week 1	13.6	28.3	14.8	30.9	15.1	31.0
Week 2 advance premier	17.0	31.6	14.4	26.8	16.2	30.2
Sept. 2 1966:						
Week 1 premier	16.8	29.7	18.3	32.4	18.7	33.1
Week 2 (———)	18.9	33.1	17.8	31.2	17.9	31.4

September 2 vs. previous year—all commercial time periods, Monday–Sunday, 7:30–11:00 P.M.

Period ending	ABC		CBS		NBC	
	Rtg	Share	Rtg	Share	Rtg	Share
1965	17.0	30.2	17.9	31.8	18.7	33.3
1966	17.9	31.4	18.1	31.8	18.3	32.3

Nights of the week average rating, all commercial time periods

	ABC	CBS	NBC
Monday	*19.6*	18.7	16.7
Tuesday	17.2	16.7	*19.6*
Wednesday	15.8	*19.9*	*19.9*
Thursday	15.8	*19.7*	17.0
Friday	13.7	*18.0*	17.3
Saturday	15.5	18.8	*20.3*
Sunday	*27.0*	14.5	17.5
Total mins	2	*3	*3

*CBS–NBC tie on Wednesday.

[Federal Communications Commission, Exhibit No. J–300; presented by Justice Department]

[3690] OCTOBER 6, 1966.

Memorandum for Mr. A. E. Cookson.
From: E. E. Benham.
Subject: ABC Facilities.

During September a number of meetings were held with the engineering groups at ABC. The main purpose of these meetings was to gather information leading toward an over-all facilities plan as well as a determination of the money requirements.

The major problem appears at this point to have been that the lack of over-all planning was apparently lost in the requirements for day-to-day operations and expansion. Since May 1965 ABC has spent $32 million for production and technical facilities. This date was when conversion to color became predominant. This figure includes charges for building construction when it was specifically for production purposes. Of the commitment, to date, a total of $18.5 million has been paid out and the balance of $13.5 million is still in commitment but not yet extended. It will be difficult to set up a complete master plan until more is known about the program and production requirements of the company.

On October 5th, a meeting was held with the vice presidents of operations and facilities and the first step of the master plan was agreed upon. It is a technical facilities building in the 66th Street complex which will eventually house all of the central technical services for production operations. This building is estimated at approximately $5 million and an estimate of the technical equipment cost is in preparation. A specific proposal is being drafted by the engineers to submit to the ABC Board of Directors because if this building is to be completed by the summer of 1967 allowing complete usage for the Fall program schedule, it must be committed in the very near future.

[3691] Meetings will continue for the purpose of concluding a master plan which will be agreeable to the parties involved. It is anticipated that any long term plan will undergo modifications, however, if the goal can be established and the aim generally kept constant, a more efficient and economic conversion to color and general upgrading of facilities can be accomplished.

E. E. BENHAM.

[Federal Communications Commission Exhibit No. J–302; presented by Justice Department]

[3693] SKIATRON ELECTRONICS & TELEVISION CORP.,
May 18, 1965.

Mr. SYLVESTER L. WEAVER, Jr.,
President, Subscription Television, Inc.,
New York, N.Y.

DEAR PAT: This confirms appointment with Robert Chason, President, Federal Electric Company (Division—I.T.T.), Paramus, New Jersey, Monday next, May 24th, at 2 P.M.

As arranged I will have the car in front of our building at 1 P.M., which should enable us to arrive at Paramus ahead of schedule.

During my visit to Federal Electric last Friday (May 14th), Bob Chason was very optimistic for the future of Subscriber-Vision (Pay-TV), and John Black, Vice-President in Charge of CATV Operations, agreed that CATV cables (and subscribers) were a natural conduit and eventual network of receivers, for Subscriber-Vision.

Joseph Pospisil, Executive Vice-President and Comptroller of Kellogg Credit Corporation (a subsidiary of I.T.T. which processes all monetary commitments) and four other Vice-Presidents of various I.T.T. divisions, expressed the opinion that CATV and Subscriber-Vision should mutually complement each other.

When I spoke to Freddie Ford, President of NCTA recently, he said he was very well aware of the affinity between CATV and Subscriber-Vision and would make every effort to keep it that way.

Best wishes.

Sincerely,

ARTHUR LEVEY.

[3694] [Federal Communications Commission Exhibit No. J-303; presented by Justice Department]

MEMO FROM ARTHUR LEVEY TO FILE

NEGOTIATIONS—ITT (FEDERAL ELECTRIC) MAY 26, 1965

As you know, I have been negotiating with ITT, via Robert Chasen, President of ITT's largest U.S. division, Federal Electric at Paramus, N.J. Just two days ago (May 24th) I brought Pat Weaver, President of STV, over to meet with Robert Chasen, President, Carl Pansegraw, Vice-President in Charge of Finance and John Black, Executive in Charge of all CATV Activities for ITT. Our conference commenced at 2PM and ended at 4:05 PM. I am pleased to report that we met with quite an enthusiastic reception. We were told that in the opinion of ITT's engineers, the Skiatron system, for a large-scale commercial operation in Pay-TV, with its unique Central Billing and two-way communications capability that monitors all the subscribers and automatically obtains a reply signal that registers on a tape at Central Billing Headquarters for immediate processing by our computer, was far superior to either Zenith's over-the-air system of subscription-TV, which is subject to the usual deficiencies of any broadcast television system in respect to certain areas where reception is degraded and therefore accounts for the rapid spread of CATV across the country, but it was also definitely superior to Paramount's Telemeter cable system, with or without a cash box and also a tape that had to be collected and processed, since Zenith's and Telemeter's systems are both what may be termed *one-way* systems and only Skiatron's Subscriber-Vision cable service with its unique, patented world-wide advantages is the only *two-way* system which resembles Telephone Company technique with respect to billing, etc.

We were told that the Skiatron system should fit in extremely well with ITT's plant manufacturing facilities in the United States and foreign countries where ITT have been established successfully for many years, and it was also indicated that they could be very interested in STV's cable grid in Los Angeles and San Francisco with respect to a possible CATV conversion with the Skiatron response circuitry to remain, insofar as possible, so

that it could be switched over to Pay-TV, as soon as the California court issues its decision, which we are hopeful will state that the Referendum was 'unconstitutional'.

[3695] Pat Weaver handed to Chasen and Carl Pansegraw, a number of books giving details of the financial expenditures made in establishing our exclusive U.S. licensee's operations in Los Angeles and San Francisco, and it was suggested that the ITT people would require approximately a week to digest the figures and the projections left by Weaver for a report to the Park Avenue office (headquarters) and that another meeting with Weaver and me be arranged shortly thereafter.

You will realize, of course, that in a growth situation like ours (Pay-TV and CATV), we always have need of powerful partners and good technical manpower with outstanding mass production facilities, which ITT have, both in the United States and foreign countries. It would be a 'natural' association for both companies.

WHAT ATTRACTS SKIATRON TO ITT?

For the past 23 consecutive quarters, Harold Geneen, President of ITT, has steered an unwavering course of growth for ITT.

Today, more than one and one-half billion dollars big, and still growing, shows that Geneen's ideas are firmly fixed on the future.

And that future should include for ITT, the really vast potential of Pay-TV and CATV, including the Skiatron system's integration as a supplementary service, over one or more of the 'unused' channels of CATV cables, including the number of CATV operations already owned and controlled by ITT, since in our opinion, Pay-TV and CATV's interests will eventually become almost indivisible. There are already more than 60,000,000 television sets installed in the United States and more than 80,000,000 installed in the rest of the free world (see U.S. Factbook—1965).

ITT—GILFALLEN

The Gilfallen Company in its premiere years, used many Skiatron dark trace tubes in their GCA system. Gilfallen could obviously benefit from an ITT interest in Skiatron, who own

and control the Skiatron patents and it may be possible to interest Gilfallen to try and develop, design and manufacture a desk-top instrument with Skiatron tube components, to be used for long distance information transmission, that would allow an executive in one part of the country to view on a screen, information from another part, then by pushing a button, receive a permanent copy of the information for his files.

Of course I also advised the ITT people that the Skiatron system had delivered crystal-clear pictures in both color and monochrome, to thousands of subscribers in Los Angeles and San Francisco, with reception far superior to 'broadcast' programs.

I also made clear that the exclusive U.S. licensees of Skiatron, STV, were the first subscription television company established on a full-scale [3696] commercial basis anywhere in the world, and to date, the only subscription television system in the world that has transmitted television programs in color as well as monochrome to many thousands of subscribers. Moreover that integration with CATV operations, either regional or national networks, would easily be accomplished, if and when deemed desirable.

I stated that the Skiatron patents include electronic means for automatic Central Billing of gas, electric and water meters, which when fully developed, could effect huge economies for gas, electric and water utilities, with royalties flowing to both STV and Skiatron.

The ITT executives realize that only the Skiatron system would provide almost instantaneous reports of 'gross receipts' for program-suppliers, and an accurate, fast 'rating' on programs, because the Skiatron system monitors all subscribers and the results are processed by our computer at Headquarters with detailed print-outs available almost immediately.

I had already written to Robert Chasen, President of Federal Electric, under date of May 21, 1965, confirming the appointment with Pat Weaver and me, and mentioned the recent ruling (May 20th) by the Superior Court of California, that the Referendum was *'unconstitutional'*.

I told Chasen that we were confident the California Supreme Court would reaffirm that ruling if the Secretary of State of California appealed and in that event I do believe that the

timing would be right for ITT, together with STV and Skiatron, to extend Pay-TV operations to the heavily populated areas of the Eastern seaboard, including New York, Philadelphia, Washington and Boston.

I also mentioned the possibility of a private CATV-Pay-TV operation in Puerto Rico, where ITT controlled the local telephone company and I am advised that they expect soon to establish a CATV in San Juan and add Pay-TV, possibly via Skiatron.

Of course I emphasized the supplementary income that would be so helpful to Pay-TV, from the 'unused' channels of CATV cables, who already include several million subscribers, conditioned to paying for television programs including commercials.

I referred to Skiatron's agreement with Tolvision International, Inc., our exclusive licensee for the entire free world (outside the USA), which is under exclusive agreement to STV.

I mentioned the petition which we had pending with the Board of Estimate and that the New York Telephone Company has prepared a special report for Skiatron on the Forest Hills-Rego Park area and that the densities are excellent for CATV, because 150 square blocks includes more than 25,000 apartment units, and the median income of the residents in that [3697] area averages $10,175.

I referred to Skiatron's tax-loss carryforward, which is in excess of $2,000,000, and I also mentioned the fact that we have 250,000 warrants in the hands of James A. Mulvey as nominee for Walter O'Malley of the Los Angeles Dodgers for the stock at $5.00 per share, and since O'Malley and Mulvey paid $25,000 cash, the total of $1,225,000 will flow to Skiatron's treasury in the event of the exercise of these warrants.

I referred to Skiatron's potential, apart from Pay-TV, and that among the patents and patent applications owned by Skiatron world-wide, there are several which should be of considerable interest to various ITT divisions, and that these patents, when fully developed, may prove to be among Skiatron's significant assets.

Yesterday, May 25th, I brought Dick Hemingway (Director of STV) to meet with several of the ITT executives at Federal

Electric, Paramus, N.J., to discuss a possible ITT interest in a CATV at Montreal, Canada, and we left full reports describing the details of the operation for study by ITT.

[3698] DIGITRON–ITT DEVICE, JUNE 22, 1965

John Black, Vice President of Federal Electric (Division of ITT), just told me on the telephone this morning that one of their physicists has invented a new device called the Digitron which Black claims can "revolutionize" the Pay-TV industry and also the "rating" services as well.

According to Black, it should work perfectly with a system such as Skiatron, since it eliminates the need for a feed-back so that the Skiatron system would require simply one coaxial cable instead of as at present, two cables for the response circuitry.

Black states that when used on existing or future CATV cables, the device would *not* require any additional coaxial cable because the "reply line" would be replaced by the Digitron device itself which develops pulses up to 1000 units.

Black states that they feel it would also be a perfect device to replace the existing rating systems now used by the networks.

Black mentioned that Charles Clements is arriving tomorrow morning to spend the day at Paramus, to discuss the use of this device for Pay-TV utilizing the Skiatron system for Puerto Rico-Montreal-USA and anywhere else internationally where the system could be installed.

Black asked me to telephone him at 12 noon tomorrow, at which time he expects Bob Chasen will be back so that we can make a further appointment to meet at Paramus and make progress on all these various items.

(To J. J. Blumberg):

P.S.—If the Digitron device performs as claimed, it should be very useful in facilitating the development of a means for the 'automatic' reading of gas, electric and water meters, as disclosed in the basic Skiatron Subscriber-Vision patent.

[Federal Communications Commission Exhibit No. J-305; presented by Justice Department]

[3699] From: Arthur Levey. To: File. (Copies to: P. A. Levey, John Ellard, F. V. Quigley, T. F. O'Brien, Kurt Widder, Julian Jawitz)
Subject: Meeting—June 24, 1965—Attended by John Black, Vice-President of Federal Electric Corporation. Date: June 25, 1965

At dinner at Quo Vadis last evening, attended by Mr. and Mrs. John Black, Charles Clements, consulting engineer, who had also previously acted for the Canadian group of Montreal, also Dick Hemingway and I, discussed the situation during dinner and it was agreed by all parties that the proposed project now in negotiation, should prove mutually beneficial for all concerned.

Clements stated that all components for success are available, as to the CATV from M. Germaine, the Alouettes from Ted Workman, including Les Canadiens, the huge new stadium which can originate and provide top sports and other events as a sort of Madison Square Garden, and it is firmly believed that practically all of the *other CATV's already including more than 87,000 subscribers in Montreal alone can be merged* into one huge company with a potential (according to Clements) of *approximately 1,000,000 TV subscribers in Montreal and its environs,* which again, according to Clements, *would form the largest CATV operation in the world.*

It could then be expected to expand to Toronto-Quebec and Vancouver, so as to cover the principal cities in the Dominion of Canada.

John Black mentioned that *ITT had developed a new invention* known as a *Digitor,* and Clements stated that he was familiar with the theory and believed it should be a tremendous money saver for the Skiatron system by eliminating the necessity for any 'playback' lines and should work perfectly over any solid-state CATV.

Clements said it should save approximately $500 to $1,000 per mile for response circuitry and lines which might otherwise be necessary (in his opinion).

Clements also stated that *the Puerto Rico* area of San Juan and the hotels where most English-speaking people live, should be used as a pilot operation by ITT to get the 'bugs' out of the Digitor when used with the Skiatron system, and he also recommended that *ITT, who control the telephone service in Puerto Rico* should start in that area with an *800-line system of Pay-TV,* for which he states the camera and monitor hardware is already available today, and that the resulting TV pictures would be *far higher and better definition* than the present [3700] *525-lines of which only 350 lines are receivable.*

Clements said ITT had several divisions in various countries that could easily build and mass produce the necessary hardware including TV receivers to accept 800 lines, and sell them to the public for no more than approximately $150. for a 19 to 21 inch picture, *as the first genuine advance* in TV receivers *since television inception in 1946* (*19 years*). Clements says the present TV monitors in broadcast studios already do 800 lines and only cost about $250. or $300. made in very small quantities, and that *ITT could easily tool up and sell them for approximately $150. each.*

According to Clements, any members of the public viewing the 525 line *broadcast* picture alongside of the 800 lines picture coming by *wire,* would be absolutely astonished by the tremendous difference in the picture quality.

Clements reminded us of the enthusiastic reception of the STV-Skiatron system over cables to more than 7,000 subscribers in the Los Angeles and San Francisco areas, where the black and white pictures were called a new kind of television, and the color TV declared to be almost stereoscopic.

Clements also said that our CATV operation in Forest Hills and Rego Park with such high densities of over 25,000 apartments within 150 square blocks, should have a profitable operation and a nucleus for expansion, with the Lefrak area of 10,000 more apartments adjoining, and over 900,000 apartments in the whole of Queens (*twice* as many as on Manhattan Island.)

I told John Black that to put things in their right perspective, there is no such thing as the STV system—and Skiatron has

a 90-year deal with STV as exclusive licensee of the Skiatron system in the United States, and since STV arranged the mass production of the hardware by Lear-Siegler, under supervision of Skiatron's engineers and each unit is stamped with the U.S. Patent No.'s of Skiatron, we do not object to calling it *STV-Skiatron system.*

[Federal Communications Commission, Exhibit No. J–307; presented by Justice Department]

MEMO FROM ARTHUR LEVEY TO FILE

[3702] TELEPHONE CONVERSATION WITH JOHN BLACK (FEDERAL ELEC.) SEPT. 15, 1965

I telephoned John Black of Federal Electric at 5:05 PM this afternoon and John said that Bob Chasen and he had prepared a report on Skiatron several weeks ago and circulated it to Geneen, President of ITT, and also all heads of the various diivsions—bu through an error of delivery—Geneen didn't get his copy until yesterday.

John said it was a favorable report, principally on Skiatron, and also mentioned STV, but put more emphasis on Skiatron.

John expects that Dr. Thornton, Technical Administrator for ITT, who visited Skiatron on September 9th, would soon add his report on Skiatron.

John said they are now negotiating confidentially with a large city in the United States, to establish a combined CATV-Pay-TV operation, and that they have the Skiatron system in mind—also they are starting an information service in Puerto Rico, where ITT are the official telephone utility and will add Pay-TV soon after.

John said if he were not working for ITT, he would now be promoting Pay-TV because he is absolutely certain it will soon get started and rapidly become one of the leading growth industries in the United States and foreign countries where television is popular.

John thinks the timing is right as of now for Pay-TV and he also suggested that it would be wise to look into the prospect of miniaturizing the Skiatron Program-Selectors to be used in the home and reduce the box to a fraction of its present size.

John states that ITT have an organization for that purpose in Nutley, New Jersey, called "The Minimin" division under Sven Dodington as Vice President. John was amazed when I told him that I had brought Dodington here from London with another engineer, Duggan, and a physicist called Mortlock, back in 1940, and since the war was then on and when the British Consul insisted

[3703]
that all three engineers return to England, I was able to persuade the British Consul in New York to permit Dodington to remain, since he had married an American girl, and by getting Dodington a job at ITT through Joseph Swan, head of the brokerage firm, Kaydon, Stone who later became one of my three directors, when Paramount, 20th-Fox and General Precision Equipment Corporation were my partners.

John suggested I telephone Dodington to arrange for him to inspect a Program-Selector for miniaturization.

John tells me that Dr. Busignies is still head of Dodington's Lab and is personally enthusiastic about Pay-TV, according to John.

I recalled having met Busignies several times many years ago when he came to the Skiatron lab to view the Ultrasonic system which had then been assembled with the aid of Dodington in the evenings, and also Saturdays and Sundays when Dodington came to New York to help in the assembly of the apparatus.

John tells me the President of Dodington's division is Dr. Jim O'Connell.

John suggests that I prepare a memo for the meeting with Geneen and emphasize the possibilities of manufacture for Pay-TV on an ever-increasing scale, and especially for ITT's new plant just established in Arkansas.

John had to leave off at that point and promised to telephone me tomorrow to continue the discussion.

[Federal Communications Commission Exhibit No. J-309; presented by Justice Department]

[3707] SKIATRON ELECTRONICS & TELEVISION CORP.,
October 5, 1965.

Mr. S. H. DODINGTON,
Vice-President, Federal Laboratories,
Nutley, N.J.

DEAR DODDIE: As suggested by you in our telephone conversation last Friday, September 24th, we have shipped a Program-Selector directly to Jimmy Valentine at your lab, and understand that you have briefed him.

Pat Weaver's secretary tells me that they will mail you a schematic today, and if there is any other information required Jimmy Valentine or you, please contact us.

We were very interested to hear that it is your belief that the present Program-Selector can be reduced by miniaturization to about one-tenth its present size, but that you want to determine whether servicing would be a problem.

As you know, the STV-Skiatron Subscriber-Vision Central Billing System is capable of transmitting three television programs simultaneously in full color as well as compatible black and white, with a degree of visual and aural fidelity that is not approached by broadcast television, and the two complete Interrogation Centers which we established in Los Angeles and San Francisco (via STV), demonstrated the unique advantages which the STV-Skiatron system has in recording usage by subscribers.

Because our system pre-empts a basic respond-back area, it is unlikely in our opinion that other hardware can be developed on a scanning method that will not infringe on our patents. Therefore, as our country becomes cabled with various CATV and MATV grids, we feel quite certain there will be a huge demand for franchises for the STV-Skiatron systems, especially from CATV operations which can easily utilize the STV-Skiatron system as a 'supplementary' service over the same cables, which should eventually make available hundreds [3708] of thousands of subscribers for Pay-TV out of the more than two million households that have already subscribed to CATV and are therefore already conditioned to paying for television programs.

You will be interested in the fact that penetration of the potential market in the areas wired in Los Angeles and San Francisco was substantially as anticipated, the quality of program reception was superb in both color and black and white, and not a single subscriber is known to have cancelled the service because of dissatisfaction with it.

We do believe that it is essential to focus sales efforts initially upon concentrations of high-rise, high-income apartment houses such as those found on the East side of New York City and the North side of Chicago, and in particular to integrate our STV-Skiatron system with existing CATV cable operations as and when deemed desirable.

20-CHANNEL CATV

It is said that with the 20-channel systems now coming on the market, a CATV could provide the following service: 10 channels of black and white and color commercial programing; *three channels of subscription television, in black and white and color;* one channel of telephone-TV use by the telephone company; and six channels for local cable television stations providing local public service programing.

In reviewing ITT's multiple activities, it would appear that they already have the facilities to manufacture on an increasing scale, all of the various components essential to our system, including Interrogators and Program-Selectors, etc.

ITT is already in the coaxial cable business, the connector business, and in the general electronic manufacturing business for the necessary amplifiers, etc., which should interest your various Divisions.

Moreover, the response circuitry and the two-way communication link used in the Skiatron system can certainly be used for transmitting data and many other specialized items besides television.

We had a call from Bob Chasen's office that he had to leave for a European visit and asked that I call him on October 11th.

With kindest personal regards to Kay and you,

Very sincerely,

ARTHUR LEVEY,
President.

[3709] P.S. I am advised that many broadcasters believe that CATV wired systems are becoming so extensive as to provide the basis for a significant system of network Pay-TV.

P.S.S. You will note that the STV-Skiatron Program-Selector which we sent to you carries our U.S. Patent No. 3,078,337, issued February 19, 1963 with very broad coverage of 94 claims. Skiatron has also developed additional important U.S. patent coverage for both the Program-Selector and Interrogator, and STV (including Lear-Siegler, Inc.), its employees, subcontractors and agents are obligated to transfer to Skiatron during the entire term of the agreement expiring March 18, 2053, all inventions, improvements and discoveries which it may make or acquire relating to subscription television systems and must pay the agreed royalties to Skiatron until the year 2053.

[Federal Communications, Commission Exhibit No. J-317; presented by Justice Department]

[3722] SKIATRON ELECTRONICS & TELEVISION CORP.

ARTHUR LEVEY

Negotiations—ITT (Via Federal Electric) December 2, 1965

I had a telephone call this morning at 9:05 AM from John Black, ITT executive in charge of CATV operations, regarding the newspaper stories of the pending ITT-ABC merger. John's opening statement was "Bob Chasen and I were kept completely on ice".

John said that while there had been rumors, etc., of Geneen's discussions with the ABC people, nothing definite had been mentioned and it came as a complete surprise to Bob Chasen and him that the negotiations were now to be finalized.

I reminded John of a meeting at Bob Chasen's office only about two weeks ago, to be exact, November 17th, at which he was present for a good part of the time, also Jack Volbrick, Vice-President, attending as an observer for Mr. Geneen, and a Mr. Pitman, another Vice-President was present for part of the time, and that the meeting had lasted from 2 P.M. until 6:10 P.M.

I told Black that it appeared that the proposed merger would be inconsistent with ITT's policy of acquiring CATV's and with the intention of becoming one of the largest owners of CATV's in the United States.

I mentioned the fact that the trade papers have frequently carried stories that ABC had strongly opposed CATV licenses before the FCC, and at hearings and had demanded the strictest possible regulation of existing CATV's.

Since ABC, who started as a network with control of the largest group of movie theatres in the United States (about 450) and were bitterly opposed to both Pay-TV and CATV, and who also held important minority interests in more than 30 foreign TV stations, would obviously insist Geneen abandon his plans of continuing in CATV and also, of course, Pay-TV, since that would conflict with the policy of ABC's movie theatre group.

[3723] I said that we were, of course, extremely disappointed that following the prolonged meetings with Weaver and me, any many meetings that I had in between those meetings, that apparently all negotiations would now have to be discontinued.

I said it seems as though Goldenson of ABC had apparently persuaded Geneen that if he continued in CATV and Pay-TV, he would be building up dangerous potential competitors for ABC's 450 theatres.

I said that Geneen must surely realize that this would not stop the expansion plans in CATV and Pay-TV of RKO-General and Zenith, together with the many other powerful companies who have now come into CATV, like General Electric, Westinghouse, Cox Broadcasting Corporation, etc., all of whom realize full well that Pay-TV will eventually take over or "lease" the unused channels of CATV operations.

I said that Geneen might regret giving up the opportunity we had presented of enabling ITT to participate at the commencement, in the rapid growth of a great new industry with vast potential profits.

I also remarked that when Pay-TV and CATV became established, it may seriously affect the gross receipts in ABC's 450 theatres who may find it difficult to generate the high cash flow that Geneen must be expecting.

I commented that perhaps Geneen is also of the belief that the ABC merger would add show business glamour to ITT's image and perhaps attract thousands of new investors, so that both ITT and ABC stock would appreciate very substantially and Geneen then could buy additional companies for *less* stock.

[Federal Communications Commission Exhibit No. J-321; presented by Justice Department]

[3732] DECEMBER 23, 1965.

GROUP EXECUTIVES—U.S. PRODUCT LINE MANAGERS
HEADQUARTERS STAFF

I am informed by ABC that there has been an unusual number of contacts between personnel of ITT, including our subsidiaries and divisions, and ABC. These have been not in the regular course of business but on the basis that "ABC is now a member of the family."

It is of the utmost importance that all contacts with ABC during this period of negotiation of the merger be cleared with me in advance in order that we can coordinate properly with them. This would not apply to business discussions which were in progress before we signed the letter of intent with ABC, but it does apply to planned new business discussions.

Will you please take the necessary steps to inform your people of this memorandum.

HART PERRY.

[Federal Communications Commission Exhibit No. J-322; presented by Justice Department]

[3733] JULY 11, 1966.

URGENT: *Memorandum to Mr. Gerrity.*

NED: Leonard Goldenson tells me that Art Nielson's company has approached them re elimination of the 30 market Nielson ratings.

As you realize, ABC has the most interest in the continuation of these ratings because they are the one place that they can

show program performance on an equal coverage basis since there are 30 markets in which all three networks are fully represented.

We have reason to believe that probably Columbia Broadcasting is behind such a move.

In any event, will you call Art Nielson and sound him out for a) objections to doing this; and b) suggest in a gentle way that since ABC is in the underdog position that the elimination of these ratings at this point would have a serious effect on its advertising presentation capability and competitive position and "we wouldn't blame them at all" if they wanted to react with a Congressional inquiry or whatever thoughts you come up with that might make him think twice about doing it.

Somehow or other, as long as he is getting paid for it, why should he cut it out except for reasons of such pressure.

Let me know what he has to say.

H. B. GENEEN.

[Federal Communications Commission Exhibit No. J–323; presented by Justice Department]

[3734] AMERICAN BROADCASTING COMPANY,
INTERDEPARTMENT CORRESPONDENCE,
July 20, 1966.

To: Simon B. Siegel.
From: Elmer W. Lower.

Several weeks ago you relayed to me a suggestion by Mr. Howard Van Zandt of the Tokyo office of IT&T that the Caroline Island Trust Territory would make a good story.

We looked into this in Washington and Tokyo and found that there is a sound basis for the suggestion. We then had to apply for permission to send a Correspondent there. That permission has just been granted. Correspondent Bob Harper, a Vietnam veteran, will leave Hong Kong for the Carolines in a few days.

He will try to do two things: (1) Gather material, fact and film, for some spot Radio and Television broadcasts; (2) Determine whether there is enough material to make an hour Docu-

mentary for the 1966–67 season. If there is, it would have to be done later with a full camera crew.

It looks promising. We will keep you posted.

[Federal Communications Commission Exhibit No. J–324; presented by Justice Department]

[3735] NOVEMBER 4, 1966.

Memorandum to Mr. A. E. Cookson.
Subject: Visit to ABC facilities in Los Angeles—November 1–3.

On November 1–3, I attended a series of meetings in Los Angeles with various members of the ABC staff. ABC has started construction on a rather new concept in a mobile control room. This is a trailer, 55 feet long and maximum road width. In order to achieve more space in the actual control area, the center third of the trailer accordians to double width during operation. We visited the company which is fabricating this unit and it appears completely practical and will serve an extremely useful function.

The building construction and facilities requirements for the expansion of the Hollywood plant were reviewed. The network program department was conducting their Spring and Summer program renewal review during which time the format for the second and third quarters is established. We participated in these meetings in that they establish the facilities requirement for their time period. It appears that the present policy of "soap operas" for daytime will be almost completely replaced by "game shows" such as "DATING GAME". The major difference between these programs' format is that the game shows require a studio audience whereas the soap operas can be done on a flat bed stage. This proposed change will result in more shows being originated from Hollywood and less from New York. The facilities program was adjusted to encompass these requirements.

The conversion of the network film production to color presentation was discussed and analyzed from the standpoint of the differential in cost of providing color prints for origination and distribution as opposed to black and white. Further infor-

mation was required as to what policies to pursue with regard to the elements furnished to ABC by the producers. It appears, however, that the additional cost of obtaining color prints will be in the area of $1–2 million per year. The exposure to the engineering group of the long term program plans is of particular importance and indicates a close relationship and liaison between these two divisions.

E. E. BENHAM.

[Federal Communications Commission Exhibit No. J–332; presented by Justice Department]

[3807] LAW OFFICES, MARCUS COHN,
Washington, D.C., March 31, 1967.

SAMUEL Z. GORDON, Esq.,
Department of Justice, Antitrust Division,
Old Star Building, Room 9120,
1101 Pennsylvania Avenue, N.W., Washington, D.C.

DEAR SAM: The following is a confirmation of the information I supplied to you in our phone conversation. I have added the information with respect to J 166:

1. The following documents were prepared by the individuals listed:

J 119—Robert E. Chasen.
J 139—Kuhn Loeb.
J 140—Kuhn Loeb.
J 143—not able to determine.
J 178—C. W. Whitting.
J 181—Kenmore.
J 187—not able to determine.
J 189—Robert Kenmore.
J 209—Robert Kenmore.
J 212—Robert Kenmore.
J 215—W. Smethurst.
J 227—Robert Kenmore.

2. The study referred to in Document J 132 was never made according to Mr. Robert Chasen.

3. The "X" company referred to in Document J 141 is Travelers.

[3808] 4. J 142 refers to Travelers. Jack Graham is a former Vice President of ITT in charge of North America area. Al Freedman is a partner in Kuhn Loeb.

5. J 144 and J 155 refer to Gross Telecasting Company.

6. The Attachment to J 146 is ITT Document No. 111 which was previously submitted to you in response to Department of Justice letter of November 17, 1966. Another copy is attached.

7. Re "AJG"—E. J. Gurley is in the ITT Treasurer's Department.

8. "This" in Document J 166 refers to Document No. J 165.

9. The Attachment to J 174 cannot be located.

10. Re J 184—The outline was prepared by Bob Savage. It was a form speech prepared for delivery at various different times and used by different people: Geneen, Perry and Savage. The "Cleveland" speech was delivered by Mr. Perry.

11. Re J 206—There is no updated booklet.

12. Re J 210—Corinthian Broadcast Group.

13. Robert Kenmore prepared J 229 in early December, 1965.

14. Re J 231—Robert Kenmore prepared it; the "I" refers to Harold S. Geneen; the attachment was never finalized, therefore no attachment exists other than what is already attached.

15. In response to additional inquiries made by you. Mr. Kenmore informs us that the "check list" referred to in J 185 was never prepared. Mr. Kenmore also informs us that the Dean Witter memorandum referred to in J 223 is Document J 202.

Very truly yours

PAUL DOBIN.

[Federal Communications Commission Exhibit No. J–334; presented by Justice Department]

[3811] Statement of Professor Albert G. Hill, Massachusetts Institute of Technology, Cambridge, Massachusetts,* made for the purpose of introduction in evidence in the proceeding before the Federal Communications Commission involving the ITT–ABC merger, FCC Docket No. 16828.

Communications technology has been and continues to be in a highly dynamic state, and there are a number of potential technological innovations which would have an impact on the television broadcasting industry. As stated in the attached paper for the Carnegie Commission on Educational Television, these innovations include, among others, satellite applications, expansion of cable systems for home reception, signal storage, better picture definition and better color, and the future development of home communications centers for the reception of many channels of television and a variety of services.

The industry presently involved in television broadcasting and set receiver manufacturing does not have a real incentive to change its present technological structure, except for minor improvements in sets, unless this change benefits the industry. This is apparent whether one considers substantially improved standards in the quality of television transmission and reception, or developments which would increase the number of channels of access to the audience. The lack of incentive for change is a conclusion based upon 25 years of experience in the general field of communications technology, and contact with its application to broadcasting during that period, and is in part [3812] demonstrated by the absence of any effective program for improved technical standards of television reception.

For these reasons, in order to promote technological innovations, there was sound basis for the Carnegie Commission recommendation that the proposed Corporation for Public Television be authorized to spend for research and development. Another desirable proposal is to reserve a number of channels in the ultra-high-frequency band for experimental use with improved technical standards. To maintain a flexible situation

* Pertinent biographical material attached

most conducive to technological change in this field, there is a substantial advantage in establishing and maintaining important sources of technology which are separate from interests in the present broadcasting industry structure.

Turning to the ITT–ABC merger, and the issue of combinations between technology firms and large broadcasting interests, there is little basis for the suggestion, which is apparently advanced in this case, that the merger will contribute in a significant or major way to technological advances in the field of TV broadcasting. This does not rule out advances in components and techniques. The merger would result in another large communications-broadcasting firm, and there is no evidence that the new organization would have incentives different from its competitors.

ALBERT G. HILL.

[3813] TECHNOLOGY AND TELEVISION

(By Albert G. Hill, Professor of Physics, Massachusetts Institute of Technology)

Technological progress which will affect television in the future falls into two general categories: electronics and new materials. Improvements in electronics for enhancing the quality of television presentation and the better distribution of television signals can be predicted fairly well. Progress in materials research is much more difficult to predict. The reason for this difference is simply that the understanding of electronics and electromagnetic techniques is very deep, and breakthroughs in basic principles are unlikely. In contrast, our understanding of materials is really in its infancy and the field is still wide open for very major advances.

In the near future, five to ten years from now, we can predict with a good degree of reliability certain advances in television technology based on new and improved electronic techniques because of our thoroughgoing understanding of basic electromagnetic phenomena. In the less certain area of improved materials, predictions for the near future are much less credible. In the more distant future of ten to twenty years, one can anticipate with certainty a number of major changes, but the precise form these changes may take is not predictable because of our lack of fundamental knowledge of materials.

Technology *by itself* can, in the near future, produce less ex-

pensive network facilities than the present landlines, can produce less expensive and more readily usable storage devices, can make for small improvements in set quality, and can make better access to homes via coaxial cable than presently exists. However, technology, when used by wise management and applied to the entire problem, can make [3814] tremendous improvements in both commercial and noncommercial television. In addition, technology can aid the program creators and have a real influence in improving program content. Improvement of program content of educational television and its nationwide distribution by economical means now possible will make the cost per viewer of educational television more in keeping with that of commercial television.

Satellites

The transmission of television signals across oceans is economically possible only by the use of satellites, and will probably remain so. The use of satellites for the transmission of public television signals in this country is only warranted if the economics are favorable and if the necessary frequency allocation is possible. Latest satellite technology indicates that in two to five years the net-working of educational television stations can probably be done for about half the overall price of the present landline systems, provided the switching requirements are kept simple. Such a system would enable the establishment of a network with ten to twenty transmitting stations and a receiving station at every educational television broadcast station.

With the present development underway by the National Aeronautics and Space Administration of large boosters for our national space program, the realization of a multichannel system for television distribution is possible in the next five to seven years. By the proper design of satellites transmitting more power than present satellites, the ground receiving stations can be made to cost no more than $35,000 and a lower overall system cost is possible. Ground transmitting stations would cost on the order of $150,000. Such a system would allow the distribution of television signals from, say, fifteen regions of the country to any television station which cares to install a relatively inexpensive receiver, and at a cost of no more than half the present landline cost.

In the next two to three years it would be quite feasible as an experimental program to position a synchronous satellite of modest design requirements with the equivalent capacity of two television channels. The cost could well be justified on the basis of the wealth of experience brought to Public Television service by this simple approach to the network problem, and by a variety of measurements such as an investigation of the interference produced by satellites radiating at many different frequencies. The limitation on the number of channels available for satellite transmission in the future will be imposed entirely by the need for conservation of the very precious frequency spectrum, and not by the cost of satellites and their associated ground equipment.

Technically it is possible to achieve direct broadcasting to the home or to schools from satellites in the next ten years. In countries which have no such land networks as the very complicated and extensive one of the United States, this might be a solution to some of their problems such as classroom instruction. In the United States, where our ability to transfer television signals from almost any part of the country to any other is already extensive, it is hard to see that there is any economic advantage to broadcasting directly to the home, since new home antennas would be required. In addition, any satellite-to-home system would bypass and hence make obsolete our local stations and undoubtedly would neglect local and sectional interests.

Other Long-Distance Distribution Systems

Our present network television is carried throughout the country by line-of-sight microwave systems, and although normal improvements in these systems will reduce the cost somewhat, the chances are that additional capacity of this type will be more expensive than satellite systems for near-transcontinental hops. There are now under development, but still some way from fruition, other types of high-capacity signal distribution systems which will be economically competitive with the present microwave system and might become competitive with satellite systems. Apart from economics, these systems will confine the electromag-[3815]netic carriers so that there will be no interference whatever with other systems, and hence they will not be limited by frequency considerations.

Even the present microwave line-of-sight systems are susceptible to interference produced by other signals, and hence the new system will provide for signal distribution unlimited by any factors except economic ones.

Storage

High-quality storage of television signals is now an accepted fact and is used constantly by commercial stations. This storage is in general used only for short times for rebroadcast purposes. Long-time storage by present methods is too bulky and too expensive. Industry is developing new systems which show great promise but presently are considered proprietary.

We forecast that within five years there will be available new video capabilities with storage devices of cost and bulk more suitable for indefinite storage. This device, or these devices, will bear to visual reproduction the same relation that LP records bear to radio reproduction and at not too different a cost.

The combination of a satellite channel with standby, serving educational television, plus high-quality tapes for reproduction of live programs and the new low-cost video storage device will make for an extremely flexible educational television system. In purely instructional television, the classroom teacher will no longer be tied to the hours of broadcast of the local educational station, but will be able to select tapes from a library in the same way records or books are selected today.

Color film with sound track is still the best means for high-quality storage and may well remain so. The problem with film has always been the development of an easy-to-load and inexpensive projection device. Because of the widespread and growing use of television for instructional purposes in the classroom, the development of inexpensive television storage devices is very important. However, in many uses, especially where fine-grain presentation is desired, there exists a need for an inexpensive sound film projector of the cartridge-loading type for individual or small class use.

Cables for Home Reception

For a number of years cable-antenna television systems (community antenna television systems) have been available to isolated communities unable to receive directly broadcast

signals, to bring television programs into the home with a reasonable monthly charge of about five dollars. These systems have also spread to densely populated cities such as New York, where manmade structures have interfered with the reception of broadcast signals. With cables becoming more and more available to the home, the possibility of their more widespread use must be considered.

Signals over cables, while limited to the same frequency spectrum as broadcast signals, do not interfere with other signals outside the cable, so channels reserved for services other than broadcast television can be used by the cable.

With not too expensive additions to present and future cable systems, it should be quite possible to put twenty television channels on a cable, and these could be received by present all-channel receivers.

Sound

Sound, as broadcast, is of very high quality; sound as reproduced by the set is of very low quality because of the present set speakers. For a very few cents at the factory, an access jack could be provided to tie the high-quality sound signal to high-fidelity reception equipment at the owner's option.

The Distant Future

In the period of ten to twenty-five years from now one can readily imagine many homes which contain a sophisticated communications center. With only modest improvements in cables and television sets, as many as eighty-two television channels or their equivalent could be available in the home for a wide variety of services. These might include:

[3816] a. The normal television broadcast channels.

b. Special channels reserved for the various performing arts, i.e., separate channels for drama, opera, ballet, and symphonic or chamber music.

c. Several channels of live broadcasts of the theater, movies, sporting events, and other entertainment which would undoubtedly require a fee on a subscription basis.

d. News, weather, time, and other repetitive services.

e. Shopping services, carried in a manner similar to daily newspaper advertising and the Yellow Page type of advertising.

f. Library services, which will allow the distribution of requested library information in the form of facsimile.

g. Picture phones.

For laboratory and office use, random access to centralized computer services and intercomputer exchange between research computers are feasible now. The growth of these services will be extraordinary.

With the ability to have present in the home or office the equivalent of eighty-two television channels with a variety of information carried, it is apparent that the consumer's needs can be met in ways not imagined here. As such systems become available, new uses will undoubtedly be found.

For most of the applications mentioned the communication is one-way to the home. However for many of the services, such as the shopping service, it would be desirable to be able to signal to the program originator such things as an intention to buy a certain item or an inquiry as to its price or expected service life. Here a simple coded type of inquiry from the home could readily be added to make the responses automatic.

There are other characteristics of television that future technology can bring if the demand is there. Such developments as three-dimensional television, very fine-grained television for special purposes, very fine gradation of light, shadow and color—all of these are possible. Besides some development work, they require more bandwidth and more money. One can almost say that within the limits of the concept of transmitted picture and sound, anything is technically possible.

Improvements in Television Sets

The present design of television sets and the standards of both black-and-white and color transmission and reproduction were essentially developed in the period from 1946 to 1952. In a broad sense this was our first attempt, and by and large for the time period it was a very good one. However a decade and a half of research and development have gone by with no

improvement in the quality of television. Any such improvement would probably require a change of standards, but these standards are tied up to some 60 million television sets.

Any change in standards, no matter how valuable, which makes obsolete some 60 million television sets is not only extraordinarily expensive but also most upopular. However, the longer we postpone any change of standards, the more certain we are to become tied to the technology of 1949. We will be in the same position vis-a-vis television standards in a few more years that we are now in with regard to changing our basic measurements to the metric system. While the point of no return may have been reached with regard to the English system of measurements, we have not yet reached that point with television. But immediate action is required regarding the use of the frequency spectrum.

Changes and improvements in television technology since the start of broadcasting have been governed entirely by the marketplace. The market is large and important and cannot change by itself without adversely affecting the tremendous investment. Although the technology applied to present-day television resides almost entirely in industry, the know-how is completely open to all technologists. Industrial technology is capable of making improvements, but it is difficult for industry alone to take a bold step in changing standards.

[3817] *Frequency Use and Conservation*

At the present time we have a completely filled VHF band and a rapidly filling UHF band. However, we note that the overwhelming majority of all man-hours of viewing are spent with sets tuned to the VHF band. It is therefore possible, at relatively small cost and dislocation, to reserve part of the UHF band for experimental purposes in research for better quality.

Although the gross national product continues to increase and items which require only more dollars for improvement can be anticipated with time, the use of the natural frequency spectrum is another matter. There is only so much of it, and any waste must be carefully prevented. It is true that there are underway applied research programs seeking to broadcast with a smaller portion of the spectrum while transmitting the same amount of video information. These developments are extraor-

dinarily important but will not come to fruition for at least ten years and probably a great deal more.

It is to be hoped that the precious UHF spectrum can be allocated grudgingly to insure that the best possible use of television with improved quality of picture transmission is a firm requirement. The present standards must be tied to the VHF band in order to protect the interests of the public and of industry, but a part of the UHF band should be opened for experimentation and improvement.

While we may expect greater use of cables, it must be remembered that the broadcast receiver is the least expensive method of getting a television signal into the home and is the only method economically possible for a large fraction of television viewers.

[Federal Communications Commission Exhibit No. J–335; presented by Justice Department]

[3822] CORRECTED COPY

INTERNATIONAL TELEPHONE & TELEGRAPH CORP.,
New York, N.Y., April 12, 1967.

Mr. SAMUEL Z. GORDON,
Antitrust Division, Department of Justice, Washington, D.C.

DEAR MR. GORDON: In accord with the undertaking made during the course of Mr. Vollbrecht's testimony, there follows a schedule of funds advanced to the six CATV systems in which Federal Electric Company has an interest:

	Initial Commitment	Advanced as of 12/31/65	To Date
Unicable	$400,000	62,025	611,790
Garden State	1,350,000	450,030	2 054,079
Southwest	2,200,000	37,515	2,350,578
Northwest	700,000	622,923	1,222,160
Puerto Rico	1,200,000	44,590	1,632,557
Television Trans. Co. of N.C	750,000	0	192,055
Totals	$6,600,000	1,217,083	8,063,219

As appears from the above table, the total funds advanced is $1,463,219 over the total initially committed.

Very truly yours,

HOWARD J. AIBEL.

[Federal Communications Commission Exhibit No. J–336; presented by Justice Department]

[3823] Statement of Floyd C. Holmes,* 5909 Onondaga Road, Washington, D.C., 20016, Antitrust Division, Department of Justice, Washington, D.C., Made for the Purpose of Introduction in Evidence in the Proceeding Before the Federal Communications Commission Involving the ITT–ABC Merger, FCC Docket No. 16828.

In November and December of 1966 I examined files and records maintained by the F.C.C. relating to the procurement by the Communications Satellite Corporation ("Comsat") of satellites and earth stations. I also conferred with F.C.C. personnel as to the Commission's regulation of Comsat's procurement under the Communications Satellite Act of 1962 and files and records kept by the Commission dealing with such procurement.

I was informed by Mr. John James, Chief of the Corporate Affairs Branch, International and Satellite Communications Division, Common Carrier Bureau of the F.C.C., that in the period 1964 through October 1966 Comsat had awarded prime contracts in the approximate amount of $65 million. The breakdown of this amount by years is as follows:

	Millions
1964	$15
1965	16
1966 through October	34
Total	65

These contracts covered all the equipment and services relating to the construction of satellites and earth stations purchased by Comsat.

I examined the F.C.C. files relating to the procurement of equipment and services by Comsat and its contractors with respect to which [3824] ITT and its subsidiaries were requested to submit proposals. My examination revealed the facts set forth in the attached Tables A, B, C and D. These tables show the following:

* Pertinent biographical material attached.

(1) ITT was awarded prime contracts in the amount of $2,604,358 (See Table A);

(2) ITT was awarded sub-contracts by Comsat's prime contractors in the amount of $10,892,748 (See Table B);

(3) ITT submitted proposals for the sale of equipment and services for which contracts were awarded to others in the amount of $5,953,942 (See Table C), but of this amount ITT was awarded a sub-contract for $114,000 (See Table B); and

(4) ITT was invited to but did not submit proposals for contracts that were awarded to others in the amount of $41,049,486 (See Table D), but of this amount ITT was awarded sub-contracts amounting to $10,778,748 (See Table B).

In summary, ITT was invited to submit proposals for supplying equipment and services for which Comsat awarded prime contracts to it and others in the amount of $49,607,786. Of this amount its share under prime and sub-contracts amounted to $13,497,106, or 27%, which was also equal to 20% of the total amount awarded for all equipment and services used in the construction of satellites and earth stations.

FLOYD C. HOLMES.

Sworn to Anne E. Poole, Notary, this 3rd day of April 1967. My commission expires March 31, 1969.

[Federal Communications Commission Exhibit No. J–337; presented by Justice Department]

[3831] Statement of Bogdan R. Stack, Stanford Research Institute, Menlo Park, California,* made for the purpose of introduction in evidence in the proceeding before the Federal Communications Commission involving the ITT–ABC merger, FCC Docket No. 16828

*Mr. Stack is the Manager of the Applied Communications Program in the Operations Analysis Department of Stanford Research Institute's Systems Science Area. Further pertinent biographical material to be submitted.

The ITT experience in communications systems, design, development, and engineering covers a wide field encompassing both the military and commercial systems. ITT subsidiaries have provided systems engineering services to the military departments in connection with major communications networks and to the Defense Communications Agency, DCA, primarily in connection with the initial Defense Communications Satellite Program. ITT Federal Laboratories have been heavily engaged in R&D and systems studies for various government departments and agencies, including NASA. The scope of services to the U.S. Government covers research, development and engineering of new systems and equipment in all areas of telecommunications and information processing.

In the commercial field, ITT has a demonstrated capability in all phases of communications, information transfer, and data processing. In the U.S., ITT subsidiaries manufacture and sell equipment which is normally needed to engineer a commercial telephone system. This includes a complete line of subscriber apparatus incorporating new technological advances such as desk sets equipped with push button [3832] dialing (Tel-touch), etc., a wide range of carrier multiplex equipment including rural and exchange trunk carrier systems, multiplexing terminals for radio, and wire applications. ITT also markets a high-density 120-channel microwave system using all solid state circuitry as well as equipment for mobile telephone service, automatic toll ticketing, switching systems (crossbar, step-by-step electronic, etc.), and PBX's.

ITT also has a substantial capability in the area of design and development of earth stations for satellite communications for both military and commercial applications. In terms of providing electronic communications gear for satellite ground stations and communications satellites ITT ranks among the top companies in the United States.

Significant contributions were made by ITT in the general area of advanced techniques associated with signal reception and transmission, improvements in receiver circuitry, etc. In the field of microwave communications, both line of sight and tropospheric scatter, ITT's capability is one of the best in the nation.

ITT subsidiaries are engaged in the manufacture of various components, including semiconductor devices, electron tubes, etc. The Wire and Cable Division manufactures cables for many diverse applications. Their advertising implies the willingness and the capabilty to design cables to special requirements of the customer.

To the best of my knowledge, the ITT wire and cable plant at Clinton, Massachusetts, also manufactures distribution cable for CATV systems.

[3833] Overseas subsidiaries of ITT, of which Standard Telephone and Cables is a particular example, represents one of the largest capabilities and competence in telecommunications outside of the United States. This puts the ITT corporation in a unique position of having proven competence and capability to design, engineer, and install communications systems for use in practically any country in the world.

ITT has also had wide experience in the operation of commercial telephone systems, primarily in South and Latin America through its ownership of operating companies. In terms of overall capabilities, which includes design and manufacture and operating communications systems, ITT is one of the three leading United States firms (the other two are GT&E and the Bell System).

In summary, it can be stated that ITT is capable to undertake the design and development of any system which involves transfer, dissemination, and processing of information, and could install and operate such systems anywhere in the world.

B. R. Stack.

[Federal Communications Commission Exhibit No. J-338; presented by Justice Department]

[3836] Statement of Paul Visher, Assistant Manager, Space Systems Division, Hughes Aircraft Company, 1950 E. Imperial Highway, El Segundo, California, made for the purpose of introduction in evidence in the proceeding before the Federal Communications Commission involving the ITT-ABC merger, FCC Docket No. 16828

If called as a witness, under subpoena, Mr. Visher would testify as to the general importance of keeping communications users separate from technology firms in order to assure a market for existing technology firms and thus encouraging them to do communications research; that if the large users of communications technology are tied to technology firms, the result will be that firms such as Hughes, firms with no communications operating companies, will be reluctant to approach the prospective users of new technology and this will have a dampening effect on their incentive to do research in areas which might lower technological barriers into mass video communications.

More specifically, Mr. Visher would state that after Hughes was unsuccessful in selling its synchronous communications sattellite system to Comsat,* they began looking elsewhere for a large user of the type of services that a synchronous communications satellite system would provide. Hughes was in part responsible for convincing ABC that such a system was both feasible and more economic than renting long lines from AT&T. As a result, ABC was the first party to propose a domestic satellite system to replace the American Telephone and Telegraph Company's long lines for TV transmission services.

[3837] If ABC had been connected with ITT, Hughes would not have felt it was either wise or potentially fruitful to ap-

*The Hughes proposal was rejected by Comsat, with the backing of Bell Labs, as technically unfeasible. Silberman, "The Little Bird That Casts a Big Shadow," *Fortune*, (Feb. 1967) 108, 110.

proach ABC with such a proposal. Indeed, the increasing likelihood of merger between ABC and ITT has substantially reduced Hughes' interest in maintaining its working relationship with ABC. Fortunately, in this particular situation, the Ford Foundation became sufficiently interested to sponsor such a proposal.

PAUL VISHER.

Subscribed and sworn to before me on this 10th day of April, 1967.

[SEAL]

A. JUNE SOUZA,
Notary Public.

In and for the County of Los Angeles, State of California.
My Commission Expires November 5, 1967.

[Federal Communications Commission Exhibit No. J–339; presented by Justice Department]

[3838] Statement of Dr. Joseph V. Charyk*, President and a Director of Communications Satellite Corporation, 1900 L Street, N.W., Washington, D.C., made for the purpose of introduction in evidence in the proceeding before the Federal Communications Commission involving the ITT–ABC merger, FCC Docket No. 16828.

The most important companies in terms of equipment manufacture and research and development for ground stations used in satellite communications are: ITT, Hughes Aircraft Company, Collins Radio, RCA, General Telephone and Electronics Co., Page Communications Engineers, Inc., Philco-Ford and TRW, Inc. The companies most important in producing the communications equipment used in satellites are ITT, Hughes, RCA, and Philco-Ford. ITT has a substantial s[illegible]act for communications gear in the global system satellite being built

*Pertinent biographical material attached.

278-719—67——54

by TRW for the International Telecommunications Satellite Consortium and ITT is reported to have a contract for constructing a satellite ground station in Spain.

ITT ranks among the top five companies in the field of satellite communications considering its capabilities [3839] in research and development, manufacture, and operation of telephone and telegraph systems. Communication satellites will be used increasingly for long distance transmission of electronic communications, including television, telephone, data, facsimile and other telecommunications, both domestically and internationally.

Future technological developments could include satellites and metropolitan networks, with co-axial cable leading into the home of multi-channel capacity. For example, electronic signals (e.g. television) would be transmitted to an earth station from which they would be beamed to a satellite, which would in turn relay the signals to another ground station near the desired point of destination. Thereafter the signals could go to an electronic switching center and from there would be transmitted within a metropolitan network and into the home. A metropolitan network could use wire, cable, microwave or laser (an optical beam which has tremendous capacity for carrying communications signals over short distances) and ultimately the signals could be carried into the home by co-axial cable or other means. Such a network could have [3840] many channels and ample capacity to deliver numerous television programs and many other services (e.g. facsimile reproduction, data, banking and shopping services) to the home. Technologically, a communications system of the future might entail direct broadcast from the satellite to the home. But this will require satellites of much greater power transmitting capacity and more elaborate home antennas.

Although these and probably other advances in communications will be technologically feasible in the future, whether they will be actually introduced and the time span in which they

will be introduced will depend on a variety of factors, including competition, economic cost and profitability, incentives to innovate, and resistance to change engendered by the present structure of telecommunications and broadcasting.

JOSEPH V. CHARYK.

Sworn to before me this 3rd day of April, 1967.

[SEAL] MYRNA BEREBITSKY,
Notary Public.

My Commission Expires Nov. 30, 1971.

[Federal Communications Commission Exhibit No. J–340; Presented by Justice Department]

[3843] MINUTES, REGULAR MEETING OF OCTOBER 1, 1963

The 691st meeting (Regular) of the Board of Directors of INTERNATIONAL TELEPHONE AND TELEGRAPH CORPORATION, was held, pursuant to notice, at the Berlin Hilton Hotel, West Berlin, West Germany, on Tuesday, October 1, 1963 at 1:00 o'clock P.M.

Present: Messrs. Brown, Geneen, Graham, Hill, Hilles, Kirby, Knowlton, Lannan, McKinney, Pierson, Stone and Westfall. Present by invitation were Messrs. Brittenham and Schwarz.

Harold S. Geneen, President, acted as chairman of the meeting. In the absence of the Secretary or any Assistant Secretary, Raymond L. Brittenham kept the minutes thereof.

The Board of Directors approved the minutes of the meeting of the Board held September 11, 1963, a copy of the minutes having been submitted to each member of the Board.

The President requested that there be considered the matter of declarations of dividends on the Cumulative Preferred Stock of the Corporation outstanding. He stated that the particulars with respect to the dividends were as follows:

Series	Dividend Period	Shares Outstanding	Amount of Dividend
5.25%	9/ 1/63–11/30/63	40,000	$52,500.00
5.25% B	9/ 1/63–11/30/63	28,424	37,306.50
4% Convertible	9/ 1/63–11/30/63	*40,000	40,000.00
4% Convertible B	9/ 1/63–11/30/63	*62,252	62,252.00
4% Convertible C	9/ 1/63–11/30/63	**129,130	129,130.00
4% Convertible D	9/27/63–11/30/63	**146,674	102,671.80
			$423,860.30

*Subject to reduction prior to record date, upon exercise of conversion privileges.

**Subject to reduction or increase prior to record date due to exercise of conversion privileges and substitute stock options.

[3853] * * * * *

Mr. Graham discussed the proposed terms of an agreement with Gilfillan Corporation and advised that on the basis of these proposed terms the Gilfillan shares would receive $13.60 per share, making a total purchase price of approximately $16,000,000, or approximately 21 times 1962 earnings. He referred to two proposed employment contracts with present principals of the company which would each be for a period of five years. The President indicated that earnings of Gilfillan had been running at a steady rate for several years with the exception of 1963, in which year lower earnings were attributable to a special major R & D program.

The need for a special meeting of ITT stockholders in the near future was discussed, the President indicating that such a meeting would be necessary to obtain corporate authorization for an additional $50,000,000 of Preferred Stock. The President advised that a formal request for a special stockholders' meeting would be made in the November Board meeting.

The President reported that the closing on the B&G acquisition had been completed on schedule and in accordance with plans.

The possible acquisition of a TV station was reviewed by the President. He indicated that the station under consideration had an excellent reputation in the TV field, was entirely debt-free and that the owners were willing to consider either a cash offer or convertible [3854] debentures. He discussed the growth and projected earnings of the company. Mr. Graham indicated that the station under consideration was a prestige type station

with a present audience of approximately 800,000. He stated that future growth of earnings was necessarily related to population growth in the area of the station. A discussion followed concerning future management of the station, earnings and possible benefits of the station to the ITT System. Mr. Graham indicated that it would be advisable to consider the eventual acquisition of a total of five TV stations. A discussion was held concerning the nature and growth rate of the TV station business. The question of current prices of TV stations was also reviewed, particularly in relation to present and future earnings.

Thereupon, there being no further business, the meeting on motion, was adjourned.

R. L. Brittenham,
Secretary of the Meeting.

[Federal Communications Commission Exhibit No. J-343; presented by Justice Department]

[3858] Statement of Harvey J. Levin, Professor of Economics, Hofstra University, Hempstead, New York, made for the purpose of introduction in evidence in the proceeding before the Federal Communications Commission involving the ITT-ABC merger, FCC Docket No. 16828.

Carrier and Noncarrier Interests in Satellite Organizational Structure

By

Harvey J. Levin, Hofstra University

[3862] The TV Networks represent a major potential source of initiative and pressure both for the right of *private* noncarrier* users to deal directly with Comsat globally (or, in the event of a domestic Comsat System, nationally), and for their right to create their own domestic systems. Although business and industry users of broad-band circuitry for data-processing,

*Unless otherwise stated as used in this statement the term "noncarrier" will refer to the big private noncarrier users as illustrated by the noncarriers who have participated in several proceedings under review.

facsimile, closed-circuit conferences, etc., may also emerge as an additional source of such pressure, the television networks' current and future stake in satellites make them the largest private noncarrier user for the foreseeable future. Whereas the factors that govern government's status and needs as a user raise other issues.

For effective implementation of the Commission's avowed policy of diffusing satellite economies widely, big users have a crucial role not only under the present authorized user policy, but also in their continued exploration of a factual basis which could conceivably warrant Commission action easing that policy. They have yet another role to play in providing the fullest range of options in the case of private domestic systems as a potential means of realizing satellite economies, or as a vehicle for accelerating [3863] the introduction of new cost-saving arrangements by carrier-operated satellite or terrestial systems. On both counts, a militant adversary role by the big private users, and in particular the TV networks, can help the Commission in its continuing efforts in wide benefit-diffusion.

If the TV networks, or other big private users, are associated with common carriers, however, they appear less likely to perform this militant adversary role. This is the conclusion to be drawn from a review of carrier and noncarrier interests and strategies in the "authorized user" proceeding and in the deliberations over Early Bird circuits and charges. It is supported further by an analysis of carrier and noncarrier strategies in the domestic satellite proceeding. In these latter proceedings, however, additional issues are raised by the competitive advantages which hardware suppliers could derive from a TV network subsidiary.

[3873] Pivotal as the Ford plan has so far been throughout the domestic proceeding, one must not lose sight of ABC's crucial role at the outset. It is well-known, e.g., that ABC's original application for permission to establish its own private TV satellite system in September 1965, based on the Hughes synchronous technology, really started the chain of events whose rate-reducing effects have yet to be fully spelled out. Aside from the present status of ABC-Hughes relations, that is, her *original* contribution is clear.

Nor does the fact that the Ford scheme is really *sui generis,* in any way blunt its relevance to our thesis here. Organizational classifications must not be permitted to blur the fundamental competitive fact; viz., that a credible competitive alternative to conventional terrestrial TV interconnection facilities, and to general multi-purpose satellite systems, has so far elicited two important cost-saving counterproposals—one from AT&T, the other from Comsat.

B. The Thirty-Circuit Case

Turning next to the international field, DOD's procurement of thirty satellite circuits in the Pacific last summer offers an even better documented illustration of how "competitive alternatives" can facilitate rate adjustments.

* * * * *

[3889] How, in any case, have the TV networks conducted themselves in the global satellite proceeding so far? Has the association of one network with a major carrier-hardware enterprise, RCA–NBC, visibly altered the positions that the broadcast or common carrier end of the enterprise has taken regarding satellite organization and operation?

First, it is well-known that NBC did not participate at all in the authorized user proceeding. In this first major confrontation of carriers and noncarriers over their future relations with one another and with the emerging satellite system, the RCAC end of the joint enterprise clearly prevailed and argued *against* direct noncarrier access. RCAC's militant and able position throughout the recent thirty-circuit episode further underlines the magnitude of her stake in meeting the threat of Comsat competition. On the other hand, ABC and CBS filed in support of direct access—along with seventeen other noncarriers ranging from newspaper and aeronautical interests to companies with data processing requirements and the NAM.

A second, similar episode occurred a year earlier in the maneuvers over Early Bird circuitry and rates. At that time, the carriers first came in with separate applications for circuits which exceeded in number those anticipated for U.S. use in Early Bird. However, they disagreed on who could or could not handle TV, some question being raised about ATT's eligibility as a voice carrier. ATT in turn said she would protest the other

carriers' should they protest here. For [3890] such reasons, the Commission on its own motion granted temporary special authorizations to the TV networks to deal directly with Comsat. Special pains were of course taken to insure that this temporary authorization would not compromise any future decision on authorized users.

What had happened, then, was that the carriers' initial failure to resolve their differences (and to keep their total requests for circuit rentals in line with circuits available) led the Commission to proceed without them. Notably, RCAC was among the carriers who first applied for circuits. When the Commission rejected these applications and acted instead on its own motion to authorize the networks to deal with Comsat direct, NBC was of course among those so favored. Subsequently, the carriers, including RCAC, returned with a joint petition for reconsideration (having at least suspended their differences over ATT's eligibility). They requested the Commission to rescind its special temporary authorizations to the networks and Comsat and approve instead petitioners original applications for permission to lease Comsat circuits. In rebuttal came ABC and CBS, but not NBC. So that once the carriers had ironed out a joint position sufficiently to persuade the Commission to respond favorably, the RCAC end of the enterprise once more prevailed.

A third and final example of divergent carrier and TV network interests occurred in the deliberations over Comsat's first proposed [3891] tariff. On one hand, each network protested the "prohibitive" and "discriminatory" character of the tariff, and the unduly long minimum time period of usage required (in contrast with the shorter, more flexible time periods needed for effective news coverage). They also protested the subjection of all TV network requests for TV circuits to prior approval by the carriers' regular customers of leased voice grade circuits.

There was, however, one major difference between the NBC and CBS–ABC protests: NBC failed to raise the authorized user issue at all. Thus, ABC and CBS, not only questioned the level of the Comsat rates as then quoted but also criticized Comsat for failing to make allowances for the special authorized

user status of the TV networks. They noted, not only that the quoted rates were high, but that they would necessarily be higher and even more prohibitive once the carrier intermediaries had cited their tariffs. As ABC stated:

> Taken alone, Comsat's proposed rates would inhibit the use of satellites by broadcasters. However, they cannot be considered alone. The Europeans are also imposing charges for the use of their connecting facilities. Moreover, since the domestic common carriers have not filed their tariff, ABC has no means of ascertaining what those costs will be. Presumably the common carriers will not operate at a loss so that ABC must regard this tariff as indicative of what the rockbottom rates to common carriers will be. The upper limits of the carrier rates could be ascertained only by speculation.
>
> The tariff files makes no reference whatsoever to authorized or qualified users. ABC has no information about rates which would be applicable to that class to compare with the common carrier rates contained in the tariff. The Comsat tariff should [3892] include rates applicable to common carriers and to authorized and qualified users, and it is severely deficient in this respect. ABC's position, as previously reported to the Commission, is that it is a qualified user and that it qualifies as an authorized user of the satellite.

* * * * *

[3896] The domestic satellite market is of special importance to the carriers, Comsat and the hardware suppliers in view of its projected magnitude. Also the share of satellite circuitry that TV is expected to account for is far greater, relatively, as well as absolutely, than in the international system. While there are broad divergences between carrier and noncarrier interests and strategies here, they differ on several counts from those in the international field and must, in any case, be viewed within the context of two other factors: (a) access to the satellite hardware market; (b) the special constraints to which international carriers are subject with regard to the domestic market.

1. Strategies of the TV Networks and Other Noncarrier Users

It is well-known that ABC has played an enterprising role in her early advocacy of private domestic special purpose systems, utilizing the Hughes synchronous technology. She was in any case the first sponsor of the Hughes system and, with her early application for rights to create an ABC owned system in September 1965, virtually initiated the whole domestic proceeding. Like the Ford Foundation's proposals for a Broadcasters Nonprofit Satellite System, ABC too has continuously favored a special purpose system owned and operated, however, by ABC or by a private joint venture of commercial TV networks. She has unequivocally held such [3897] systems to be economically and technically viable, rejected the carriers' contention that spectrum scarcities still warrant their preclusion by Commission rule, projected estimates of cost savings to single networks or to TV satellites operated by a consortium of networks or, on their behalf, by a specialized noncommon carrier. ABC has also continued to urge dedicated or special-purpose TV systems in the face of counterproposals by ATT and Comsat for multi-purpose systems, or integrated satellite-terrestrial systems.

CBS endorses the early establishment of private satellite systems on legal, policy and technical grounds. She favors competing systems of all sorts. While not opposed to carrier-owned satellite systems as such, she does oppose any integrated satellite-terrestrial system (like ATT's) as liable to preclude the enjoyment of large savings by the big satellite users. Like ABC she also opposes any Comsat domestic monopoly, and further opposes any joint carrier satellite systems that preempt the field. In brief, CBS advocates freedom for all interested parties to create their own systems here and now as the best way to assure the wide diffusion of satellite economies to any and all users.

[3895] *B. Carriers and Noncarrier Users: The Domestic Proceeding (Docket No. 16495)*

The carriers all favor carrier-operated domestic satellite systems and oppose private systems—at least for the foreseeable future, until carrier-owned systems are fully accommodated in the face of alleged "spectrum scarcities".

Noncarrier users, on the other hand, generally urge the Commission to authorize without delay the establishment of private and common carrier systems by any and all interested parties. In this they seek rights above all to choose between competing alternatives domestically as well as internationally.

The carriers and noncarriers generally diverge also in their position on multipurpose and single-purpose ('dedicated') systems. No carrier favors the latter, whereas most noncarrier users do—irrespective of whether they be operated by a specialized non-common carrier, or by the user itself.

Comsat has also opposed private systems, and single-purpose systems, and argued further for a domestic Comsat monopoly of the space segment at least, in contrast with many carriers.

Although NBC's position throughout has diverged less sharply from that of ABC and CBS than in the global satellite proceeding, several important differences still merit attention. So too does the bearing on the NBC position of RCA's hardware interests.

[3898] Both ABC and CBS see a relation between reduced transmission costs and the resources needed for improved TV programming. They both oppose key aspects of the Ford proposal for NETV but differ in their appraisal especially as concerns the funding of ETV interconnection facilities. ABC would have any joint network TV satellite system provide free channels for ETV, whereas CBS urges a more comprehensive review of NETV interconnection, program origination, and financing problems, along lines recently espoused by the Carnegie Commission.

NBC has also entered the domestic satellite proceeding, urged general recognition of the legality of private domestic systems, and explicitly advocated early authorization of a special-purpose TV satellite—whoever were to own and operate it. In this proceeding, her position is closer to that of ABC and

CBS than on "authorized users" or on Early Bird circuits. But some important differences should be noted.

First, NBC still reserves judgment on whether *private* domestic TV satellites are in fact in the public interest at this time. Most important, NBC has left the door open to *carrier-operation* of any domestic TV satellite system (in contrast with CBS and ABC). She emphasizes the need to establish *some* domestic TV satellite system at once to replace costly terrestrial interconnection, [3899] but urges the Commission to proceed with the technical-physical groundwork *even before* all the organizational decisions may be made.

The range of options which NBC would accept for a TV satellite system is much wider than that proposed by the other networks:

> (A) specialized carrier on behalf of a consortium of networks might engage various manufacturers to design and construct a system to be owned and operated as a cooperative carrier system. Or one or more conventional carriers might offer to provide an entire specialized system for broadcast users. Or a specialized carrier on behalf of a consortium of networks might supply certain of the facilities needed; contract with Comsat for certain space segment elements; and contract with a domestic common carrier for certain ground station facilities and terrestrial links.
>
> Different parts of the system could be constructed, owned, or managed by different companies or entities. . . . A domestic . . . system . . . might own its own satellites, or have Comsat supply all the satellite circuits, or combine satellite ownership and lease of satellite circuits.
>
> Similarly, where desirable, AT&T might operate certain of the earth receiving terminals, such as in congested metropolitan areas where they might be connected by terrestrial links to broadcast stations. In other situations broadcast stations might own ground receiving terminals through which they directly obtain commercial or noncommercial network programs.

[3900] In ABC's latest formulation, like NBC, she continues

to endorse a special-purpose TV system and also appears willing to have a specialized non-common carrier create such a system on behalf of the TV networks:

> No antitrust or public interest reasons occur to ABC why the several networks (commercial and educational), through a joint venture arrangement or by the creation of a separate corporation for that purpose, could not join together in constructing and operating a satellite facility with which to distribute programs to their affiliated and associated stations. . . .

However, ABC still opposes any role for Comsat and the carriers. At least, in line with the private microwave and tall-tower analogies, she still insists on the networks' rights (like other noncarrier users) to service their affiliates "by the latest means available, without the intermediary of a common carrier". According to ABC:

> Certainly, if radio frequencies may be granted, as they have been, to taxicabs, airlines, railroads, pipelines, CATV systems and numerous other private businesses, without the intermediary of a common carrier, there is every reason why radio frequencies should continue to be made available to the radio and TV networks, educational and commercial, to serve their private and specialized needs. . . . [The networks] should be permitted to take advantage of space-age developments such as synchronous stationary satellites.

In sum, NBC's position was a valuable and creative contribution to the problems at hand. But she was clearly far less explicit than [3901] ABC and CBS on the desirability of *user-owned* systems, perferring rather to postpone the organizational-managerial decision and, in any case, to leave the door open to *some role for the carriers and for Comsat*. Yet, as noted earlier, it was this very specter of a *privately-owned alternative* to an ATT or Comsat-owned system which elicited those companies' own cost-reducing multi-purpose systems proposals. So that ABC and CBS, with their deep opposition to both ATT or Comsat participation, have favored a more radical position and, together with the crucial Ford proposal, offered a more clear-cut competitive alternative.

2. Strategies of the Communications Carriers

The carriers either question the Commission's legal right to authorize private noncarrier systems (Comsat, GT&E, Hawaiian, WUT), or, granting that right, oppose private systems for the foreseeable future, until the carriers have had time to service the needs of general users and private specialized users alike (ATT, ITTWC, WUI). Paramount in the carriers' stated opposition are alleged spectrum scarcities, and the higher rates for small users expected as a result of the loss of substantial private business.

Although no carrier questions the scientific or technical feasibility of the Hughes synchronous system for domestic TV distribution (as advocated by Ford, ABC, CBS, NBC), they do in fact [3902] oppose such a system and favor a multi-purpose system instead. Paramount here is ATT, who proposes an integrated multi-purpose satellite-terrestrial system whose space segment would be run by Comsat, and whose earth stations the domestic carriers would operate. Comsat has also favored a multi-purpose system. Supported by GT&E, Hawaiian and Western Union Telegraph, she presents herself as the sole entity legally able to create any domestic space segment and, jointly with the domestic carriers, to build any necessary ground station. Finally, Western Union International has endorsed some such Comsat system, whereas ITTWC still opposes any Comsat system and has endorsed the ATT model.

Among the private noncarrier users, only the ANPA and Airinc favor a private multi-purpose system. Whereas only NBC, favoring a special-purpose TV system, has kept the door open for some possible Comsat or ATT role therein.

ITTWC distinguishes herself both from the domestic carriers and from the noncarriers in that she leaves the door open to future private systems while opposing them now in the face of spectrum scarcities (which ABC among others denies exist). While ITTWC opposes any Comsat domestic role on legal grounds (but not mentioning as do CBS, ABC and Ford dangers of any basic conflict [3903] of interest), she joins the other carriers in opposing private systems now because they threaten to divert satellite business from the domestic carriers

at the expense of the small user. WUI recently filed in opposition to private systems on policy rather than legal grounds, but urges, like ATT, a joint Comsat-carrier multi-purpose system integrated with existing terrestrial facilities.

RCAC, on the other hand, has refrained from entering the domestic proceeding at all. Instead, the NBC end of the joint enterprise has prevailed in the domestic proceedings, just as the RCAC end has prevailed throughout the authorized user and Early Bird deliberations in the global proceeding. This may seem reasonable insofar as RCAC is an international, not a domestic entity, and is not legally qualified to operate in the domestic satellite market. But ITTWC and WUI, subject to identical constraints, have both done otherwise, entering the domestic proceeding as proponents of multi-purpose, carrier-operated systems, and in opposition to private special purpose systems. They have thus provided the Commission, at least in the case of ITTWC, with an additional, distinctive organizational alternative.

What difference for policy formulation it may make for one end of a joint enterprise to speak for the whole enterprise in proceedings where *both* ends might appear on different sides were they independent [3904] entities is hard to state categorically. However, anything that narrows the Commission's range of choice among competing options must be suspect at this formative stage of satellite organizational structure.

As a matter of principle it seems hard for any international carrier that strongly opposes the private users in their campaign for direct access to Comsat in the international market to condone it domestically; or to give blanket endorsement to private domestic systems (the more probable domestic equivalent). For that reason alone it is understandable that ITTWC should give only limited qualified approval of private systems "in the future", and that RCAC should remain silent (especially in view of NBC's role). But a closer look at the RCAC, NBC and ITTWC positions reveals them to be strategies at least consistent with the hardware interests of their parents.

As noted, NBC has clearly left the door open to a future TV network joint venture buying satellite service from AT&T and Comsat or other carriers. Above all she stresses that immediate

steps be taken to create *some* special purpose TV system whoever is finally to own and manage it. Thus she compromises between any unqualified endorsement of independent private TV satellite systems unrelated to Comsat or the carriers (ABC, CBS), and blanket opposition to such [3905] systems (Comsat, GT&E, WUT), or opposition to private systems for the foreseeable future at least (AT&T, ITTWC). Stated otherwise, NBC has steered carefully between outright endorsement of a private TV network system unrelated to Comsat or AT&T, and routine endorsement of one of the multi-purpose systems options that the carriers now propose. One consequence is that RCAC is spared the dilemma of being the sole carrier on record to condone a private TV satellite system *now,* or of having to oppose it publicly (against ABC, CBS and others).

Both this NBC compromise position, and the ITT Worldcom position ("no private systems today, perhaps tomorrow") are strategies that help them avoid diverging too dramatically from the positions followed by all other members of their respective industries, but at the same time that endorse, to varying degrees, the future advent of private satellite systems. One factor that may underlie these compromise positions are the advantages that a hardware parent like RCA and ITT would derive from a TV network subsidiary in securing preferential access to the domestic satellite market (and, of course, in competing there with each other).

3. Access to the Domestic Hardware Market

As international record carriers ITT Worldcom, RCAC and WUI can participate in domestic satellites only as Comsat stockholders or as co-owners of possible dual-purpose earth stations. The domestic [3906] satellite market for ITT Worldcom and RCAC must therefore necessarily be the hardware market in which their parent companies ITT and RCA can and do participate. A TV network subsidiary could confer some competitive advantages in selling to that hardware market.

In this regard, the Satellite Act has explicitly sought to forestall any competitive advantages a hardware supplier could derive from his carrier subsidiary's stockholdings in Comsat or its representation on the Comsat Board. First, Congress re-

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jected any narrow based consortium of common carriers and instituted instead broad based ownership in which hardware suppliers among others could participate. Second, the number of carrier directors and the amount of carrier owned stock are arbitrarily limited. Third, special government directors sit on the Board. Fourth, the Commission is authorized to police all hardware procurement to insure fair competition between independent and carrier-affiliated hardware companies.

Because of these well-known 'Comsat-type safeguards', independent suppliers (like Philco and Westrex) have even favored dealing with Comsat owned rather than carrier owned ground stations—notwithstanding the Commission's procurement rules and the fact that they apply to the *carriers as well as to Comsat*. However, these several safeguards *do not* now apply to private domestic systems or to *their* [3907] potential hardware procurement. By definition, such private systems are not covered by the special safeguards now built into Comsat's organizational structure (the composition of its Board, the limitation on carrier stockholdings and on carrier directors). Indeed the General Electric Co. has recently brought attention to this very point in urging the institution of special safeguards in the private domestic satellite field too.

Private systems, then, free of the Comsat type safeguards or otherwise, represent a new hardware (as well as circuit) market. Without such safeguards the hardware parent of any TV network subsidiary's private system could expect advantages in providing the needed hardware.

Furthermore, Comsat and AT&T both estimate that in the aggregate separate private systems will require far more hardware due to duplication of investment than would any single, integrated multipurpose system run by the carriers and Comsat. If these estimates are even roughly correct, then hardware companies could expect a larger total market where many private, single-purpose systems operate separately, than where the same needs are met by a single, multi-purpose carrier-operated system. In that case too it is rational for ITT to eventually tolerate eventual private systems, and for RCA-NBC to favor specialized TV systems "whoever manages them".

[3908] To sum up, RCAC and ITT Worldcom are international record carriers with no direct standing in any domestic satellite system except as Comsat stockholders or as future co-owners of dual purpose earth stations. But the RCA and ITT hardware parents clearly *do* stand to gain advantages in the hardware market from a TV network subsidiary that can participate in establishing any private satellite system.

With a privileged position on the Board of any private, specialized TV network satellite system (like that proposed say by ABC or NBC), a hardware parent would be privy to information on model design beforehand and conceivably be able to influence it to favor its own hardware capabilities. The same advantages which draftsmen of the Satellite Act sought to contain in granting the FCC power to impose special procurement rules, in allowing independent suppliers (without carrier ties) to hold Comsat stock, in limiting carrier stockholdings and representation on the Comsat Board, in appointing special government directors, etc., would reappear here all over again. Except that the independent supplier would now have no FCC procurement safeguards to assist him. Nor could he hope to secure the same inside information to aid him in meeting or making design proposals, as could the hardware parents on a private system run, for example, by a consortium backed by TV networks.

[3909] Blocked from the domestic satellite business, finally, one would expect an international record carrier with a hardware parent to be more tolerant of private, domestic satellite systems than either (a) a domestic carrier (directly threatened by them), or than (b) an international record carrier with no hardware associate, or with no noncarrier associate likely to create such private systems. An analysis of the contrasting strategies of participants in the domestic satellite proceeding bears this out.

[3910] * * *

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[3911] In the domestic field a second important competitive alternative to carrier or Comsat owned satellite systems is the establishment of private or cooperative systems and, in particular, of special purpose systems. Here too the television net-

works associated with carriers would be less likely than those which are not so affiliated to provide distinct alternatives to Comsat or AT&T. These issues are more complex, however, and require some additional clarification:

First, television networks interests most clearly diverge from those of domestic carriers since these are the carriers most directly challenged by the proliferation of special purpose domestic systems precipitated, in part, by a successful campaign for such a television system.

Second, the international record carriers, blocked from any direct participation in the domestic satellite market, can share in that market's growth only as Comsat stockholders and co-owners of any future dual purpose earth stations. But here, their hardware parents can participate far more directly and extensively. Hence the divergent positions taken by WUI, RCAC and ITT Worldcom in the current proceeding cannot be understood without reference to the hardware market.

[3912] Third, for hardware parents like RCA or ITT a television network subsidiary can provide: a) an additional base from which to influence the future development of the whole domestic satellite organization (making them owners of a major private user as well as a Comsat stockholder); and b) advantages in competing for specific contracts to supply satellite hardware to any private television system, especially if there are no FCC procurement safeguards.

[Federal Communications Commission Exhibit No. J–350]

[3997] EXHIBIT J–350.—*American Broadcasting Co.—Summary of capital needs and plans for meeting them*

	1967	1968	1969	1970
Cash shortage per AR-3	($58,409)	($32,450)	($22,301)	$10,600
Borrowings already arranged:				
IT&T Loan	25,000	(25,000)		
Bank Loan:				
Borrowing	2,500			
Repayments	(375)	(500)	(500)	(500)
Marine World borrowings*	2,500	2,500		
Shortage to be financed	(28,784)	(55,450)	(22,801)	10,190
Interest on borrowings, net of tax:				
IT&T Loan	(562)	(375)		
Bank Loans	(72)	(56)	(41)	(26)
Shortage including interest	(29,418)	(55,881)	(22,842)	10,164

See footnotes at end of table.

EXHIBIT J–350.—*American Broadcasting Co.—Summary of capital needs and plans for meeting them*—Continued

	1967	1968	1969	1970
PLAN I				
Borrowings, 1967	$30,000	($3,000)	($3,000)	($3,000)
Interest, net of tax	(450)	(855)	(765)	(675)
Borrowing, 1968	----------	60,000	(6,000)	(6,000)
Interest, net of tax	----------	(900)	(1,710)	(1,530)
Borrowing, 1969	----------	----------	35,000	(3,500)
Interest, net of tax	----------	----------	(525)	(997)
Borrowing, 1970	----------	----------	----------	6,000
Interest, net of tax	----------	----------	----------	(90)
Net cash inflow (outflow)	132	(636)	158	372
PLAN II				
Borrowings, bank lines	30,000	(6,000)	(6,000)	(6,000)
Interest, net of tax	(450)	(810)	(630)	(450)
Borrowings—insurance co.	----------	63,000	12,000	----------
Interest, net of tax—1967 loan	----------	(945)	(1,890)	(1,890)
Interest, net of tax—1968 loan	----------	----------	(180)	(360)
Borrowings—bank lines	----------	----------	20,000	(4,000)
Interest, net of tax	----------	----------	(300)	(540)
Borrowings—bank lines	----------	----------	----------	3,000
Interest, net of tax	----------	----------	----------	(45)
	132	(636)	158	(121)
[3998] PLAN III				
Borrowings, 10 year notes	30,000	(3,000)	(3,000)	(3,000)
Interest, net of tax	(450)	(855)	(765)	(675)
Proceeds from convertible	----------	49,000	----------	----------
Interest, net of tax	----------	(750)	(1,500)	(1,500)
Borrowings, 10 year notes	----------	10,000	----------	----------
Interest, net of tax	----------	(150)	(300)	(300)
Borrowings, 10 year notes	----------	----------	30,000	----------
Interest, net of tax	----------	----------	(450)	(900)
	132	(1,636)	1,143	3,789
PLAN IV				
Borrowings, bank lines	30,000	(6,000)	(6,000)	(6,000)
Interest, net of tax	(450)	(810)	(630)	(450)
Proceeds from sale of stock @ $65	----------	60,000	----------	----------
Dividend requirements (945,100 @1.60)	----------	(756)	(1,512)	(1,512)
Borrowing, bank lines	----------	3,000	(600)	(600)
Interest, net of tax	----------	(45)	(81)	(63)
Borrowing, banks	----------	----------	32,000	(6,400)
Interest, net of tax	----------	----------	(480)	(964)
Borrow, banks	----------	----------	----------	6,000
Interest, net of tax	----------	----------	----------	(90)
	132	(492)	(145)	85

EXHIBIT J-350.—*American Broadcasting Co.—Summary of capital needs and plans for meeting them*—Continued

	1967	1968	1969	1970
PLAN V				
Proceeds from sale on 9/30 of 1,692,000 shares of common stock @ $65 less 2½% underwriting commission	$107,231			
Repayment of IT&T loan—10/1/67	(25,000)	$25,000		
Interest saving on IT&T loan [1]	187	375		
Dividend payment	(677)	(2,707)	($2,707)	($2,707)
Interest income on short term investments, at 2% after tax	262	720	146	
Net cash inflow (outflow)	52,585	(32,493)	(25,403)	7,457
Cumulative inflow (outflow)	52,585	20,092	(5,311)	2,146

[3999] PLAN I

	1967	1968	1969	1970
All debt, ten year maturities, Capital structure and fixed charge coverage:				
Capital structure:				
Debt at 12/31/66 less repayments	87,897	79,037	69,893	60,933
New debt less repayments	59,625	93,625	119,125	112,125
Total debt at 12/31	147,522	172,662	189,018	173,058
Equity at 1/1	141,111	153,527	166,841	183,300
Earnings less new interest	19,916	21,814	23,959	27,682
Dividends	(7,500)	(7,500)	(7,500)	(7,500)
Equity at 12/31	153,527	166,841	183,300	203,482
Total capital at 12/31	301,049	339,503	372,318	376,540
Debt as percent of total capital	49.0%	51.0%	50.8%	46.0%
Net income as above	$19,916	$21,814	$23,959	$27,682
Interest charges	6,776	8,678	9,997	10,080
Lease interest	2,407	2,199	2,004	1,823
Income taxes at 46%	17,000	18,600	20,400	23,600
Depreciation	12,500	17,400	19,500	20,100
Debt repayments, exclusive of IT&T refunding	7,665	12,360	18,644	21,960
Lease principal payments	3,459	3,247	3,021	2,802
Coverage ratios:				
Pre tax earnings coverage	6.5	5.7	5.4	6.1
After tax earnings coverage	3.9	3.5	3.4	3.8
Pre tax earnings coverage, including lease interest	5.0	4.8	4.5	5.3
Pre tax cash coverage	3.9	3.2	2.6	2.5
Pre tax cash coverage including leases	3.1	2.7	2.3	2.4
Earnings per share	$4.23	$4.63	$5.09	$5.87

See footnotes at end of table.

Exhibit J-350.—*American Broadcasting Co.—Summary of capital needs and plans for meeting them*—Continued

	1967	1968	1969	1970
PLAN II				
Produces capital structure and coverage ratios substantially the same as Plan I.				
[4000] PLAN III				
Debt and Convertible Subordinated Debentures:				
Capital structure:				
Debt at 12/31/66 less repayments	$87,897	$79,037	$79,893	$60,933
New senior debt less repayments	59,625	43,625	70,125	66,625
Convertible subordinated debentures	....	50,000	50,000	50,000
Total debt at 12/31	147,522	172,662	190,018	177,558
Equity at 1/1	141,111	153,527	167,841	184,285
Earnings less new interest	19,916	21,814	23,944	27,599
Dividends	(7,500)	(7,500)	(7,500	(7,500)
Equity at 12/31	153,527	167,841	184,285	204,384
Total capital at 12/31	301,049	340,503	374,303	381,942
Senior debt as percent of total capital	49.0%	36.0%	37.4%	33.4%
Debt as percent of total capital	49.0%	50.7%	50.7%	46.5%
Net income, as above	$19,916	$21,814	$23,944	$27,599
Interest charges	6,776	8,678	10,027	10,246
Lease interest	2,407	2,199	2,004	1,823
Income taxes @ 46%	17,000	18,600	20,400	23,500
Depreciation	12,500	17,400	19,500	20,100
Debt repayments, exclusive of IT&T refunding	7,665	12,360	12,644	12,460
Lease principal payments	3,459	3,247	3,021	2,802
Coverage ratios:				
Pre tax earnings coverage	6.5	5.7	5.4	6.0
After tax earnings coverage	3.9	3.5	3.4	3.7
Pre tax earnings coverage, including lease interest	5.0	4.8	4.5	5.2
Pre tax cash coverage	3.9	3.2	4.3	3.6
Pre tax cash coverage, including leases	3.1	2.7	2.8	3.0
Earnings per share	$4.23	$4.63	$5.09	$5.86
Earnings per share, diluted by conversion of debentures @ $70	....	$4.30	$4.70	$5.37

EXHIBIT J–350.—*American Broadcasting Co.—Summary of capital needs and plans for meeting them*—Continued

	1967	1968	1969	1970
[4001] PLAN IV				
Use of debt and common stock:				
Capital structure:				
Debt at 12/31/66 less repayments	$8, 897	$79, 037	$69, 893	$60, 933
New debt less repayments	59, 625	33, 625	58, 525	51, 025
Total debt at 12/31	147, 522	112, 662	128, 418	111, 958
Equity at 1/1	141, 111	153, 527	227, 985	244, 741
Earnings less new interest	19, 916	22, 714	25, 768	29, 407
Sale of new stock	----------	60, 000	----------	----------
Dividends	(7, 500)	(8, 256)	(9, 012)	(9, 012)
Equity at 12/31	153, 527	227, 985	244, 741	265, 136
Total capital	301, 049	340, 647	373, 159	377, 094
Debt as percent of total capital	49.0%	33.0%	34.4%	29.7%
Net income, as above	$19, 916	$22, 714	$25, 768	$29, 407
Interest charges	6, 776	6, 878	6, 379	6, 630
Lease interest	2, 407	2, 199	2, 004	1, 823
Income taxes, at 46%	17, 000	19, 350	21, 960	25, 050
Depreciation	12, 500	17, 400	19, 500	20, 100
Debt repayments, exclusive of IT&T loan refunding	7, 665	15, 360	16, 244	22, 460
Lease principal payments	3, 459	3, 247	3, 021	2, 802
Coverage ratios:				
Pre tax earnings coverage	6.4	7.1	8.5	9.2
After tax earnings coverage	3.9	4.3	5.0	5.4
Pre tax earnings coverage, including lease interest	5.0	5.6	6.7	7.4
Pre tax cash coverage	3.9	3.0	3.3	2.8
Pre tax cash coverage, including leases	3.1	2.6	2.8	2.5
Average shares outstanding	4, 707	5, 180	5, 652	5, 652
Earnings per share	$4.23	$4.28	$4.56	$5.20

EXHIBIT J–350.—*American Broadcasting Co.—Summary of capital needs and plans for meeting them*—Continued

	1967	1968	1969	1970
[4002] PLAN V				
Sale of common stock:				
Capital structure:				
Debt at 12/31/66 less repayments	$87,897	$79,037	$69,893	$60,933
New debt less prepayments	4,625	6,625	6,125	5,625
Total debt at 12/31	92,522	85,662	76,018	66,558
Equity at 1/1	141,111	260,980	275,437	292,335
Sale of stock	107,231	----------	----------	----------
Earnings plus interest income less new interest	20,815	24,664	27,105	30,974
Dividends	(8,177)	(10,207)	(10,207)	(10,207)
Equity at 12/31	260,980	275,437	292,335	313,102
Total capital at 12/31	353,502	361,099	368,353	379,660
Debt as percent of total capital	26.2%	23.7%	20.7%	17.6%
Net income, as above	$20,815	$24,664	$27,105	$30,974
Interest charges	5,501	4,418	3,997	3,496
Lease interest	2,407	2,199	2,004	1,823
Income taxes, at 46%	17,700	21,000	23,100	25,600
Depreciation	12,500	17,400	19,500	20,100
Debt repayments, exclusive of IT&T loan retirement	7,665	9,360	9,644	9,460
Lease principal payments	3,459	3,247	3,021	2,802
Coverage ratios:				
Pre tax earnings coverage	8.0	11.3	13.5	17.2
After tax earnings coverage	4.8	6.6	7.8	9.9
Pre tax earnings coverage, including lease interest	5.9	7.9	9.4	11.6
Pre tax cash coverage	4.5	5.0	5.4	6.2
Pre tax cash coverage, including leases	3.3	3.8	4.2	4.8
Average shares outstanding	5,553	6,399	6,399	6,399
Earnings per share	$3.75	$3.86	$4.23	$4.84

[1] Represents shift from original repayment plan, thus an outflow in 1967 and not in 1968 as scheduled above.

*Repayments included in AR–3.

[Federal Communications Commission Exhibit No. J–353; presented by Justice Department]

[4019] Response to Item 3(a)

Department of Justice Letter of 2/3/67

A. UHF Stations Affiliated With ABC by Contracts Executed Since 1/1/63

Akron, Ohio	WAKR–TV
Anderson, S.C.	WAIM–TV
Bakersfield, Cal.	KLYD–TV
Binghamton, N.Y.	WBJA–TV
Boston, Mass.	WSBK–TV
Charlotte, N.C.	WCCB–TV
Columbia, S.C.	WOLO–TV
Dayton, Ohio	WKEF–TV
Decatur, Ill.	WAND
Erie, Pa.	WJET–TV
Ft. Wayne, Ind.	WPTA
Fresno, Cal.	KJEO
Harrisburg, Pa.	WTPA
Huntsville, Ala.	WAAY–TV
Jacksonville, Fla.	WJKS–TV
Johnstown, Pa.	WARD–TV
Knoxville, Tenn.	WTVK
Lexington, Ky.	WKIJ
Lima, Ohio	WIMA–TV
Louisville, Ky.	WLKY–TV
Madison, Wisc.	WKOW–TV
Montgomery, Ala.	WKAB—TV
Muncie, Ind.	WLBC–TV
Parkersburg, W. Va.	WTAP–TV
Pasco, Washington	KEPR–TV
Peoria, Ill.	WIRL–TV
Poplar Bluff, Mo.	KPOB–TV
Roanoke, Va.	WRFT
Salisbury, Md.	WBOC–TV
Scranton, Pa.	WNEP–TV
South Bend, Ind.	WSSV–TV (Elkhart)

Springfield, Mass.	WHYN–TV
Yakima, Wash.	KIMA–TV
Youngstown, Ohio	WYTV
Zanesville, Ohio	WHIZ–TV

[4020] *B.* Cities and Towns Where UHF Affiliation Requests Were Declined by ABC Since 1/1/63 *

Anniston, Alabama	WHMA
Muscle Shoals, Ala.	CH. 47 (WVNA)
Tuscaloosa, Alabama	WEFT
Hanford, California	KSJU–TV
San Bernardino, California	KCHU
San Diego, California	KAAR–TV
Groton, Connecticut	WSUB
Melbourne, Florida	CH. 31
Valdosta, Ga.	WJEM (Proposed)
Marion, Indiana	WTAF–TV
Ft. Scott-Iola, Kansas	KMBO–TV
Joplin, Mo.	KUHI–TV
Sikeston, Mo.	CH. 37
Wildwood, N.J.	WCMC–TV
Poughkeepsie, New York	CH. 54
Jamestown, N.Y.	WKSN–TV
Charlotte, N.C.	WCTU–TV
Hickory, N.C.	WHKY–TV
Wilson, N.C.	WRAL–TV
Ashtabula, Ohio	WICA–TV
Portsmouth, Ohio	WRLO–TV
Allentown, Pa.	CH. 60
York, Pa.	CH. 49
Lubbock, Texas	CH. 20
Nacogdoches, Texas	CH. 19
Victoria, Texas	CH. 19
Danville, Va.	WHTM–TV
Washington, D.C.	WDCA–TV
Austin, Texas	KHFI–TV

*** This list does not include all markets with three stations or less where the UHF station became affiliated with another network or all markets with four or more stations where ABC renewed or established a VHF affiliation.**

[Federal Communications Commission Exhibit No. J-359; presented by Justice Department]

[4167] INTERNATIONAL TELEPHONE AND TELEGRAPH CORPORATION,
New York, N.Y., May 4, 1967.

ROBERT BAKER, Esq.,
Antitrust Division,
Department of Justice,
Washington, D.C.

DEAR MR. BAKER: This letter will confirm the information concerning AR 83 which was previously given by Mr. Aibel to Mr. Gordon of your office.

1. In the excerpt of the Directors Meeting of July 10, 1963, the word "He" refers to Mr. Ted B. Westfall.

2. In the excerpt of the Directors Meeting of November 13, 1963, the word "He" refers to Mr. Ted B. Westfall.

3. In the excerpt of the Directors Meeting of December 11, 1963, the word "He" refers to Mr. Ted B. Westfall.

4. In the excerpt of the Directors Meeting of June 10, 1964, the word "He" refers to Mr. Ted B. Westfall.

5. In the excerpt of the Executive Committee Meeting of May 8, 1963, the word "He" refers to the Company President, Mr. H. S. Geneen.

6. In the excerpt of the Executive Committee Meeting of April 8, 1964, the word "He" refers to the Company President, Mr. H. S. Geneen.

Very truly yours,

SCOTT E. BOHON.

[Federal Communications Commission Exhibit No. J-363; presented by Justice Department]

[4222] 1967 Operating Plan

ITT CATV Operations

* * * * *

[4224] In submitting our 1967–1971 Business Plan on December 15, 1966, we indicated that detailed operating plans were not available and the resultant accuracy of the Business Plan would be subject to some variation. It was determined that due

to this possible variation there would be no oral presentation of the Business Plan until an adequate review of our operating plans had been conducted. This document summarizes that review. An oral presentation may be scheduled at any time in the near future.

ROBERT A. MARSHALL,
General Manager, ITT CATV Operations.

* * * * *

[4229] ITT IN THE CATV BUSINESS

REASONS FOR CONTINUING

1. As an industry CATV is a profitable business.
2. CATV can provide ITT with a U.S. operating company base.
3. CATV has a good return on investment ratio.
4. It is a rapidly growing business.
5. It can provide a market for ITT products (wire and cable, etc.).
6. It can provide a hedge against any erosion of the broadcasting revenues CATV as an industry might create.
7. Favorable public exposure if performance good.
8. Technical feasibility of expanded services, mass communications, automation of household services, etc., provides growth base.

REASONS AGAINST CONTINUING

1. Relatively high risk business due to our learning curve, volatile nature of industry, etc.
2. Legislative and regulatory problems could have severe impact on industry.
3. Heavy capital needs for short term (next 3 to 5 years).
4. Public exposure for poor performance.
5. Political exposure at local level.
6. Increasing competition from major companies for new franchises.
7. Conflict with broadcasting operations possible.
8. Could achieve capital gain if interests sold now.

* * * * *

[4232] 3. SPECIFIC RECOMMENDATIONS

a. ITT continue in the CATV business.

b. We dispose of our interests in

(1) Unicable, Inc., Oswego, New York

(2) TTC of N.C., Mechlenberg County, North Carolina

c. We expand, through added construction and additional franchise acquisition, our interests in

(1) Northwest Cablevision, Seattle, Washington

(2) Garden State Cable TV, Inc., Southern New Jersey

(3) Southwest CATV, Inc., Rio Grande Valley, Texas

d. We retain our present interest in Puerto Rico Cablevision in hold posture.

e. We initiate a concentrated investigation to acquire other franchises in the states of Washington and New Jersey.

f. We consolidate our equity position in the four retained systems into a new subsidiary and exercise our stock warrants and options.

g. We acquire 100 per cent equity in Garden State, through purchase; and increase our equity in Northwest to at least 80 per cent as part of the new financial agreement.

h. A study group or task force be formed to investigate:

(1) future technology of CATV and possible ITT product development.

(2) interrelationship of CATV and other consumer communications services: fire and medical alarm, utility telemetering, data links, newspaper by wire, ETV, etc.

(3) regulatory problems, such as copyright, conflict with broadcasting, etc.

(4) other long term developments.

If the results of this investigation are favorable and significant opportunity is established, then an additional study of major acquisitions should be undertaken.

* * * * *

[4246] B. PRODUCT PROGRAM OFFERING

The present plan for Metropolitan Seattle systems and South Seattle will be based on the twelve channel capability of the

VHF channels on all conventional television sets produced over the past fifteen years. The channels will be as follows: (See schedule)

The initial package will be:

- 6 Local stations
- 1 Bellingham
- 2 Canadian, if possible under FCC rules with 2 Tacoma UHF as substitutes during interim period
- 1 Weather channel
- 1 Local origination programming with some movies
- 1 24-hour news AP wire service channel

In many of the areas of Seattle operating engineering difficulties arise when direct pickup of signals in subscribers' sets interferes with cable signals. Temporary expedience includes operation of local channels converted to different cable channel allocation. This however reduces the number of usable channels from twelve to nine. Industry solutions include a variety of outboard tuning devices capable of handling up to 31 channels of television service.

Ultimate product possibilities:

- 6 local channels
- 1 Bellingham
- 3 Canadian
- 3 Network channels videotaped and played back on following day (including commercials)
- 1 weather channel
- 1 news channel
- 1 stock market and business channel
- 1 closed circuit movie channel
- 1 channel devoted to industry area training films, i.e., Boeing Company
- 4 educational channels operated by City of Seattle and area school systems
- 6 Los Angeles Independent channels
- 1 San Francisco Independent channel
- 1 Portland Independent channel

The above service offering, especially the Los Angeles, San Francisco, and Portland Independent program, is dependent upon future FCC rulings regarding imports of distant non-

network signals and further development of the Pacific Coast miscellaneous common carrier microwave service availability.

*   *   *   *   *

[4248] C. EXPANSION PROGRAM

In anticipation of forestalling any competitive inroads into areas of Seattle where we have developed systems, we have engineered approximately 200 miles of additional plant. Permits to initiate construction have been filed with the telephone company and detailed schedules and material and manpower requirements developed.

The priority of construction will be:

1st Magnolia-Queen Anne Sections
2nd Ballard (North Beach expansion)
3rd West Seattle
4th South County

although some construction will proceed in all areas simultaneously.

The attached revised pro forma statements indicate the anticipated subscriber growth, revenue and expense projections.

D. INCREASED PROGRAM ORIGINATION CAPABILITY

At the present time we are originating a Time and Weather channel on the West Seattle system and recognize that with an increased base of subscribers additional programming will be required. A tentative engineering approach for tying major segments of each of the various areas has been developed and various types of satellite program origination capability included in the attached capital forecast. A detailed review and final plan for these facilities will be prepared during the initial construction phase.

E. ITT EQUITY POSITION

At present we have stock purchase warrants which would permit us to acquire 60 per cent of the stock ownership in Northwest Cablevision. These warrants were issued in part as consideration for our loan of $1,500,000. If we increase this loan to $5,500,000 to finance the proposed expansion program, we would obviously expect an increased percentage of ownership equity. I believe this should be between 80 and 90 per cent.

F. MANAGEMENT AND CONTROL

The present management of Northwest is diligent, hard working and capable. They should be retained and additional compensation, both in the form of salary increase and an incentive bonus plan, developed.

*   *   *   *   *

[4279] F. MANAGEMENT CONTROL

In order to protect our present investment and insure the proper expenditure of future funds, we have:

- emplaced Mr. H. Moffatt as Vice President and Operating Manager.
- added two ITT members to the Board of Directors.
- appointed our Comptroller, Mr. John Morrison, as Secretary-Treasurer.
- revised the Southwest CATV by-laws to:
    - change principal place of business from Houston to Rio Grande Valley (cost reduction purposes).
    - provide specific delegation of authority to General Manager and reserve for Board approval major financial commitments.
    - transfer authority of signatures for bank accounts.
- established schedule and method for clarifying issuance of stock (if any) to minority holders.
- established a schedule to resolve any other claims outstanding on Southwest CATV capital stock.
- enlisted the aid of Messrs. Yturria, Koppel, Boswel, Kamin and Olsen to protect the unbuilt franchises.
- clarified proposal to import microwave signals from Monterrey. This is being held pending further investigation.

G. INTERIM MARKETING STRATEGY

Since the ultimate product will not be available until November, we have established the following product and sales strategy:

278-719—67——56

- Intensify local origination of Spanish language programming. Fill community need.
- Improve reproduction quality of Channel 6 (Monterrey) tape playback.
- Concentrate heaviest direct sales effort on Spanish-speaking portion of population in Brownsville.
- Pre-sell new construction on segment-by-segment controlled basis.
- Intensify dealer sales program.
- Minimize advertising promotion in favor of direct sales.

*   *   *   *   *

[5820] If the stakes were high in radio, it took no great clairvoyance in the late '40's to recognize that the situation in television, absent additional resources, was going to be even more critical. Here again, ABC's shortage of affiliates with profitable Class I AM operations produced untoward and unforeseen consequences in TV. Following World War II, NBC and CBS (the former, particularly) had encouraged their affiliates, who were in a financial position to do so (generally those with major AM facilities), to protect themselves by getting television permits while they could be had for the asking. Thus, when the 1948–1952 TV freeze came along, and television sets in the hands of the public zoomed in those 4 years from 500,000 to 15 million, most of the 105 TV franchises then outstanding were held by persons long associated with either NBC or CBS. And with nearly all markets, except for a handful, limited to one or two stations thus associated with NBC and CBS, ABC faced an impossible clearance problem, particularly during the 1948–1952 "freeze"—as reflected by the 1951 gross billings of the four TV networks:

NBC	$59, 171, 452
CBS	42, 470, 844
ABC	18, 585, 911
DuMont	7, 761, 506

[4319] [Federal Communications Commission Exhibit No. BB-1; presented by Broadcast Bureau]

Total Revenues and Profit of the Three Networks—O & O's

[In millions]

	Revenues		Profit before tax	
	3 networks	ABC	3 networks	ABC
1965				
Network	788.5	215.0	59.3	(5.6)
O & O's	235.3	63.4	102.2	25.5
Total	1,023.8	278.4	161.5	19.9
Payments to affiliates	186.7	53.9		
1964				
Network	712.6	179.5	60.2	(8.4)
O & O's	216.1	55.6	86.3	21.9
Total	928.7	235.1	156.5	13.5
Payments to affiliates	176.1	49.9		
1963				
Network	635.8	166.8	56.4	(4.6)
O & O's	184.5	43.0	79.8	16.2
Total	820.3	209.8	136.2	11.6
Payments to affiliates	165.9	48.6		
1962				
Network	584.7	167.4	36.6	3.3
O & O's	169.5	40.2	74.7	16.9
Total	754.2	207.6	111.3	20.2
Payments to affiliates	163.1	46.8		
1961				
Network	526.5	161.0	24.7	4.7
O & O's	148.8	34.6	62.3	14.2
Total	675.3	195.6	87.0	18.9
Payments to affiliates	146.5	43.0		
1960				
Network	494.8	140.5	33.6	7.5
O & O's	145.9	32.3	61.6	13.0
Total	640.7	172.8	95.2	20.5
Payments to affiliates	130.5	34.3		
1966				
Network	903.9	247.5	78.7	(9.0)
O & O's	262.5	71.6	108.1	29.4
Total	1,166.4	319.1	186.8	20.4
Payments to affiliates	200.9	61.9		

( ) Denotes Loss.

[Federal Communications Commission Exhibit No. 25; presented by Broadcast Bureau]

[4396] International Telephone
and Telegraph Corporation,
International Headquarters,
May 17, 1966.

To: Messrs. H. S. Geneen and H. Perry.
From: Robert H. Kenmore.
Subject: Nielsen Ratings.

Attached are the Nielsen ratings (both National and 30-Market) for the current season to date. The big jump in ABC for the week ending April 24 was due to the Academy Awards broadcast. Apart from that there is not too much of significance to report as we are coming into the period when sets in use are going down and the "ratings race" is pretty much over for the season.

I am attaching a copy of a tabulation that Nielsen did on comparing the ratings performance for the networks for this season versus last season. It naturally shows that ABC did not stack up as well this year as in the previous year. However, taking the 30-market ratings for the January–April portion of each season only (i.e. categorized this year by ABC as their Second Season) the comparison is much more favorable to ABC. The only thing this indicates to me is that prompt and imaginative action on the programming front can yield results in this business, which is a heartening thought versus the sometime expressed view that a network is a slave to the ratings performance of its existing shows once a season has started.

Softness in television buying does not seem to have affected network billings in the first two months of this year, as indicated by the attached clip.

[Federal Communications Commission Exhibit No. 26; presented by Broadcast Bureau]

[4397] INTERNATIONAL TELEPHONE AND TELEGRAPH CORPORATION,
INTERNATIONAL HEADQUARTERS,
January 26, 1966.

To: Mr. H. S. Geneen/Mr. H. Perry.
From: Robert H. Kenmore.
Subject: Nielsen Ratings.

The 30-market Nielsen's are out for the week ending January 16 (Week 18), which was the premier week of ABC's Second Season.

Predictably ABC came in first with a 20.0 rating, with CBS at 19.2 and NBC at 18.3.

Preliminary analysis would indicate that ABC's strength resulted primarily from higher sets in use rather than stealing viewers away from the other 2 networks.

As far as individual shows were concerned Batman II (Thursday night) was the top rated show of the week, Batman I was second, Henry Phyfe was sixth, and Blue Light tied for twelfth with Daktari (a new CBS show).

It will take a couple of more Nielsen books to determine the staying power of the new shows, but on balance there is no question that the Second Season has been a successful venture for ABC. While only the Batman will probably continue in the "hit" category this is really the critical show because of its twice a week booking and important 7:30 p.m. time slot as a lead-in to the rest of the night. Furthermore all of the shows that were cancelled to make room for the new ones had such a low rating that even if the other shows managed to hold on to an "average" rating, ABC will show a net improvement on balance.

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[87] FEDERAL COMMUNICATIONS COMMISSION,
Washington, D.C. 20554

ABC–ITT MERGER PROCEEDINGS

MEMORANDUM OPINION AND ORDER WITH REVISED DISSENTING STATEMENTS BY COMMISSIONERS BARTLEY AND JOHNSON

CONTENTS

PART I. MEMORANDUM OPINION AND ORDER BY THE COMMISSION

FCC 66–1186
92762

BEFORE THE

FEDERAL COMMUNICATIONS COMMISSION

WASHINGTON, D.C. 20554

Docket No. 16828

In the Matter of
APPLICATIONS BY AMERICAN BROADCASTING COMPANIES, INC.

For Assignment of Licenses of Stations WABC, WABC–FM, WABC–TV, New York, N.Y.; WLS–FM, WBKB, Chicago, Ill.; KGO, KGO–FM, KGO–TV, San Francisco, Calif.; KABC, KABC–FM, KABC–TV, Los Angeles, Calif.

For Transfer of Control of Stations WLS, Chicago, Ill.; KQV and KQV–FM, Pittsburgh, Pa.; WXYZ, WXYZ–FM, WXYZ–TV, Detroit, Mich.

For Assignments and Transfers of Ancillary Radio Facilities.

MEMORANDUM OPINION AND ORDER

BY THE COMMISSION: COMMISSIONERS BARTLEY, COX AND JOHNSON DISSENTING AND ISSUING SEPARATE STATEMENTS

1. This proceeding involves applications by American Broadcasting Companies, Inc. (ABC) for Commission approval of assignments and transfers of licenses for seventeen broadcasting stations to a new corporation of the same name which will be a wholly owned subsidiary of International Telephone and Telegraph Corporation (ITT). The substance of the proposed transaction is that ABC will be merged into ITT so that ultimate control will pass from the present stockholders of ABC to a new group of stockholders which will be composed of the present ABC stockholders plus the present ITT stockholders.

2. ABC and ITT entered into a merger agreement on February 14, 1966. On March 31, 1966 the applications herein were filed with the Commission. Public notice of the filing of these applications was given, as required by statute and regulation. 47 USC § 311, 47 CFR 1.580. Proxy statements relating the details of the proposed mergers were mailed to all the shareholders of ABC and ITT, and the shareholders of both corporations voted overwhelming approval of the proposed merger.

3. On July 20, 1966 the Commission sent letters to the presidents of ABC and ITT requesting further information relating to the proposed future operations of the new licensee company. On July 25. 1966 replies to these letters were received by the Commission from ABC and ITT. On August 18. 1966 the Commission issued an Order and Notice of Oral Hearing Before the Commission en Banc. The Commission there noted that the applications contain and are accompanied by masses of data and numerous exhibits setting forth in great detail all of the factual information normally sought by the Commission in

transfer proceedings, together with a large amount of additional information concerning the corporations involved. The Commission stated that the great bulk of data supporting the applications is factual and statistical in nature, and the Commission's review of the data did not indicate any questions of fact. In light of these considerations, the Commission accepted the factual representations in the filings herein as authentic and accurate statements of fact and as evidence of record herein. The order also provided that in order to preserve the right of any interested party to raise any questions of fact, any party desiring to offer other or further evidence might file a written statement of such evidence within 20 days of the date of release of the order. The order provided that any statement of facts so filed would be accepted and received as evidence, subject to all proper objections and arguments as to relevance and materiality, unless an objection was filed challenging the authenticity or accuracy of such evidentiary statements within five days after the filing and service upon the parties of any such statements. A hearing was ordered before the full Commission to be held on September 19, 1966, and it was provided that any interested party desiring to appear and be heard should file a statement on or before September 5, 1966, indicating such intention and designating an attorney or other spokesman.

4. Pursuant to the order of August 18, 1966 ABC and ITT filed a number of statements and exhibits setting forth substantial additional data concerning those companies and their plans. ABC and ITT filed notices of intention to appear at the hearing and named attorneys and corporate officials to attend and speak on behalf of the respective corporations.

5. Hubbard Broadcasting, Inc. (Hubbard) filed a timely Petition to Deny the application for assignment of the license of WABC, New York, N.Y., one of the stations owned and operated by ABC. Hubbard has no objection to the transfer of any of the other licenses or properties involved in this proceeding. Hubbard also filed timely notice of intention to appear at the hearing on September 19, 1966, and did appear by its attorney, who was heard by the Commission.

6. The proposed ABC-ITT merger, the submission of the merger agreement to the shareholders of each corporation, the filing of the applications with the Commission, the Commission's further inquiries to the parties, the setting of the matter for hearing before the Commission and the hearing before the Commission, all received wide publicity in the general press, the trade press, on broadcast news reports and in other media. With the exception of Hubbard, whose case is discussed separately below, no statements, written submissions or objections were filed and no appearances were made in opposition to the granting of the applications.[1] Since the conclusion of the hearing, the Commission has received comments from a few Senators on the proceedings, and several letters from others expressing their views on this matter. These letters have been made part of the public file associated with the docket in this proceeding and have been treated by the Commission in accordance with controlling principles of administrative and constitutional law as expounded in *Pillsbury Co.* v. *F. T. C.,* 354 F2d 952 (CA 5th 1966), and *Sangamon Valley Television Corp.* v. *United States,* 269 F2d 221, 18 RR 2109 (CA DC 1959).

7. In deciding upon the procedures to be followed in reviewing the applications for our consent to the merger, we found it desirable to go considerably beyond the steps ordinarily pursued in processing even the larger transfer matters. In each instance of departure from perfunctory routines, which we briefly note here, we have sought to heighten the effectiveness of the methods customarily employed to assay the effect of station transfer proposals on the public interest.

8. The initial tasks of staff review and analysis of the voluminously documented applications, and the presentation of recommendations to the Commission were specially assigned to an experienced, senior member of the staff of our Broadcast

[1] On September 15 and 19, 1966 telegrams were received from an individual unknown to the Commission and unidentified requesting postponement of the September 19 hearing for 30 days so that the signer could appear in opposition to the merger. The signer was informed that the request was neither timely nor in accord with Commission requirements but that the signer was at liberty if he wished to make a prompt written submission. None has been received and no facts were alleged warranting further attention.

Bureau who, freed from other duties and provided with all needed assistance was thus facilitated in performing a painstaking and searching study of the proposal.

9. Upon our review of the staff's submissions, which included a separate analysis by senior staff of the Common Carrier Bureau, and, taking into account ITT's and ABC's prompt response to our requests for additional information, we considered and, for the following reasons rejected the step of initiating a routine hearing. There being no substantial or material question of fact, and no adversary party, there was no occasion for the laborious and time-consuming process of accruing on a hearing record the voluminous matter already available in formal documentation accompanying the applications, in supplemental submissions by the parties and in published data of which we could, as needed, take official notice.

10. Moreover, since what was needed was not a hearing record of factual data already available to us, but an effective means for critical review of its legal and policy implications, we chose not to have oral proceedings conducted in perfunctory fashion before an examiner, but arranged instead for the Commission en banc to hear interested parties as well as any objectors who might come forward. None did. By this means we provided an opportunity—unavailable under standard procedures—for direct, formal and public confrontation between the Commissioners who are charged with making the judgments reposed by law upon the Commission, and the responsible executives of the parties, as well as their experts and counsel. Procedures routinely followed would have provided us—after long delay—only with a written record in whose development the Commissioners could have had no participation, and oral presentations by counsel with no appearances of the principals.

11. Accordingly, the Commission provided that the documentary submissions should be taken as the factual record. It further provided that "any party" desiring to offer other or further evidence or facts, or to challenge any facts, might do so by a written statement. Order and Notice of Oral Hearing Before the Commission En Banc, August 17, 1966. This procedure goes considerably beyond the normal Commission proce-

dure in inviting and permitting intervention without requiring any showing of standing or interest.

12. Another departure from routine practice which we adopted was to place upon our staff the responsibility for making an independent determination and public presentation of all the questions of law and policy which they considered were posed by the merger. We thereby sought to afford the maximum opportunity for consideration of every pertinent facet of the pending proposals. The hearing was held and occupied two unusually long days. During the hearings the Commissioners personally heard, saw and cross-examined not only the attorneys for the parties but the principal officers of the corporations. The individual Commissioners had an opportunity to participate in the proceedings, to hear and observe the principals involved, and to have first-hand knowledge of the testimony and representations of the parties in a manner that would have been quite impossible under the procedure for an ordinary evidentiary hearing. As a result, the Commission believes that it has a more complete knowledge and better understanding of the issue involved in this proceeding than would have been possible under any other procedure.

13. Although this procedure has not produced complete agreement among the Commissioners, it has certainly resulted in thorough consideration. The disagreements result from differences of judgments and viewpoints, and no other or further proceedings offer any prospect of resolving any of the issues on which the members of the Commission now differ. It is the judgment of the majority of the Commission that the procedure followed in this case was extraordinarily painstaking and thorough and the most adequate in the circumstances of this case that our ingenuity could devise.

14. Since this proceeding involves a merger the Commission has considered the possibility of potential antitrust significance, and, accordingly, has established and maintained a continuing liaison with the Antitrust Division of the Department of Justice, pursuant to which the Commission has kept the Antitrust Division advised of all proceedings involving this matter. The Commission was aware of the official statement of the "Business Review Procedure" by the Antitrust Division, which

states that where the opinion of the Antitrust Division is sought for business conduct which "is subject to approval by a regulatory agency, no review request will be considered until after agency approval has been obtained." The Antitrust Division made no statement or filing regarding this matter prior to the Commission hearing, made no appearance at the hearing, and offered no comment except that it had the matter under study until November 3, 1966, when it stated in a letter to the Commission that there was a possibility of "anti-competitive effects" and of "anti-trust questions" involved in the proposed merger. The Commission thereafter urged the Antitrust Division to make a more definitive statement, and finally on December 20, 1966, the Antitrust Division stated in a letter to the Commission that: "The possibilities of such anticompetitive consequences seem sufficiently speculative that we are not presently contemplating an action under the antitrust laws to enjoin consummation of the merger." The letter then went on to review various aspects of the proposed merger which the Antitrust Division suggested the Commission consider under the public interest standard. These included possible technical developments or contributions in the broadcasting field by ITT, ITT interest in some CATVs, the possible development of domestic satellites and their use in broadcasting transmissions, the possibility of difficulty arising out of integration of a network by a large diversified industrial concern, and the possibility that ABC might be able to provide its needed capital from profit. The letter concludes: "Because of the uncertainties inherent in predicting developments in these rapidly changing areas, we cannot conclude on the basis of the facts presently available to us that the competitive effects are sufficiently determinable to make it appropriate for the Department of Justice to institute suit at this time under Section 7 of the Clayton Act. We suggest, however, that these anticompetitive possibilities warrant serious consideration by the Commission . . . in applying the public interest standard . . ."

15. We agree with the Antitrust Division that the standards governing its action and the action of the Commission are significantly different. The Antitrust Division is charged with enforcement of the antitrust laws, 15 USC sec. 1, et seq., while

the Commission is charged with effectuating the policies of the Communications Act. 47 USC sec. 151. Under the Communications Act the standard for Commission action is not simply competition but the wider public interest, and the Supreme Court has instructed this Commission that "encouragement of competition as such has not been considered the single or controlling reliance for safeguarding the public interest" in this field. *F. C. C.* v. *RCA Communications,* 346 US 86, 93 (1953). This principle has recently been reaffirmed. *Seaboard Air Line RR* v. *United States,* 15 Led2d 223 (1965). Under these precedents, it is reversible error for the Commission to rest its decision solely on competitive considerations. *F.C.C.* v. *RCA Communications, supra; Seaboard Air Line RR* v. *United States, supra.* We appreciate the effort the Antitrust Division has made to assist the Commission, although we are bound to note that its comments would have been more appropriate and helpful if they had been submitted before or at the time of the hearing in this matter. All of the facts and considerations discussed in the letter from the Antitrust Division are and have been known to the Commission and have been the subject of careful consideration under the principles and standards applicable to our field of specialized jurisdiction, experience and expertise.

16. As is more fully explicated in the discussion which follows, we have given careful consideration to all of the competitive factors involved here, including those mentioned in the Antitrust Division letter, and have concluded from our analysis of the factual situation, upon the basis of our own "analysis of the needs of the industry," and with the help of our "accumulating insight" derived from the exercise of our functions. *F.C.C.* v. *RCA Communications, supra,* at 94, 96, that the merger proposed here would enhance, rather than lessen, competition in the field of communications, and would serve the public interest and the purposes of the Communications Act. The problems involved in the development of CATVs and their relationship to conventional broadcasting facilities have been under long and intensive consideration by the Commission, and we have issued a number of opinions and orders relating to these matters and setting forth the Commission's position in great detail. See Dockets No. 14895, 15233, 15971, First Report and Order

(April 22, 1965) 38 FCC 683. Memorandum Opinion and Order (July 7, 1965) 1 FCC2d 524. Second Report and Order (March 4, 1966) 2 FCC2d 725. We have specifically considered the issue of cross-ownership of television and CATV facilities. Docket No. 15415, First Report (July 27, 1965) 1 FCC2d 387. These dockets remain open and we are continuing to receive information and give consideration to the issues involved in this complexus of problems. In any event, we do not find any realistic relevance to this proceeding in the CATV matters mentioned. We have set out herein our views on all relevant issues and the considerations which compel us to the conclusion that the purposes of the Communications Act will best be effectuated by the order which follows.

17. Although the only applications actually pending before the Commission involve the transfer of control of seventeen radio and television stations, these are an integral part of an enterprise which includes a national radio and television network. The evidence that has been submitted to the Commission is far greater in both extent and depth than that normally submitted in a transfer proceeding and the Commission inquiry has gone far beyond the scope normal in transfer proceedings. If this proceeding involved no more than the transfer of control of the seventeen broadcasting stations, the record would be more than ample to sustain approval. However the focus of attention of both the Commission and the applicants has been on the significance of control of the network. We are mindful that this involves jurisdictional problems. Although the Commission is authorized to make special regulations for stations "engaged in chain broadcasting," 47 USC sec. 303(i), some question remains as to how far the Commission is authorized to inquire into or attempt to control other network activities or corporate affiliations. Cf. National Broadcasting Co. v. United States, 319 US 190 (1943). We note that within recent months a radio network has changed ownership and two other networks have acquired large non-broadcast interests, all without submission to or action by the Commission since there were no station licenses being transferred in these transactions. Thus the instant matter comes before the Commission because of the form and circumstances of the transaction and not because of

any statutory authority to regulate networks. However, since all the information sought by the Commission in this proceeding has been furnished without objection by the parties, and in view of our ultimate determination, it is not necessary for us to decide the scope of our jurisdiction in this area. We have considered this matter without regard to any jurisdictional limits and we merely note that we leave the limits of our jurisdiction over networks for future consideration.

18. On June 21, 1965 the Commission issued a Public Notice establishing an interim policy concerning the acquisition of broadcast stations. FCC 65–548. In substance this policy declared that any subsequent application for a television station license the grant of which would result in any party having more than three television stations, or more than two VHF stations, in the top fifty television markets would be designated for hearing in the absence of a compelling showing for the grant. That policy applies to the present applications. It does not, by its terms, bar the approval of transfers falling within its terms, but only requires that such transfers be subject to the searching inquiry of a hearing. The procedure followed in this proceeding was designed to secure all relevant factual data and subject the principals to full interrogation and examination, and we believe that it achieved those goals. Indeed, the hearing held in this proceeding gave the Commission itself, as distinguished from its staff, a more complete opportunity to interrogate the principals and learn the basic facts than would have been the case had there been the more conventional reference to a Hearing Examiner and preparation of a printed record. Consequently we believe that the requirement for a hearing which was set forth in the statement of interim policy has been satisfied by the procedure herein.[2]

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[2] During the course of the hearing, counsel for ABC questioned whether the hearing of September 19th and 20th satisfied all technical requirements of the type of hearing to which under Section 309 of the Communications Act applicants for stated types of broadcast authorizations are entitled, under stated conditions, if the Commission does not grant their applications. However at the conclusion of the hearing all counsel stated that all relevant evidence was in the record, that there was no further evidence to be secured by further proceedings, and that the parties waived any other or further hearings. Transcript 601–607.

19. The basic issue which has pervaded these proceedings and to which most of our attention has been directed is whether the acquisition of one of the three national television networks and one of the four national radio networks by a large diversified industrial company, such as ITT, will increase concentration of control of the mass media or tend to decrease or discourage diversity in broadcasting. The concern of the Commission on this point is similar to, but not identical with, the policy of the national antitrust laws. It is appropriate, and perhaps mandatory, that we take account of the national antitrust policy. Southern Steamship Co. vs. N.L.R.B., 316 US 31 (1942); Mansfield Journal Co. v. F.C.C. 180 F 2d 28 (1950). However, we cannot rest our conclusion solely on our judgment as to the application of antitrust policy, and must establish what we regard as a satisfactory accommodation between the demands of the antitrust laws and the purposes of the Communications Act. Seaboard Airlines RR v. United States, 15 Led 2d 223 (1966); F.C.C. v. RCA Communications, Inc., 346 US 86 (1953).

20. The antitrust laws and policy in effect prohibit those corporate mergers that are likely substantially to lessen competition or tend to create a monopoly. 15 USC sec. 18. Fundamental to any analysis of concentration or competition is a definition of the "relevant market," or the geographical area and products involved. Brown Shoe Co. v. United States, 370 US 294 (1962); United States v. Philadelphia National Bank, 374 US 321 (1963); Tampa Electric Co. v. Nashville Coal Co., 365 US 320 (1961). The significance of a merger, or similar transaction, must be judged by appraisal of the effect upon business and the amount of business involved in relation to the market setting in which the effect takes place. There may be several different kinds of relationships between corporations and their effects may be found in different markets.

21. The record in this proceeding shows no market in which ABC and ITT engage as competitors. Consequently the proposed merger will eliminate no "horizontal" competition, and, therefore, is not inconsistent with antitrust policy for that reason. Cf. United States v. Von's Grocery Co., 16 Led 2d 555

(1966). ABC and ITT have a vertical, or buyer-seller, relationship in two respects. ITT buys some television and radio advertising, and ABC buys some products sold by ITT. The evidence in the record discloses these relationships in detail. The total television advertising purchased by ITT in 1965 was approximately $523,000, and for 1966 is estimated at $1,672,000. Total radio advertising by ITT in both years was approximately $25,000. FCC records disclose that in 1964 total television advertising time sales amounted to $1,549.9 million and in 1965 to $1,673.7 million. Radio advertising time sales in 1964 amounted to $763.7 million, and in 1965 to $827.7 million. ABC purchased products and services of the same or similar type to those produced or furnished by ITT in an amount of approximately $606,000 in 1964. These products and services were in such varied markets as air conditioning equipment, auto rentals, electronic equipment and overseas cablegrams. No single category of such products or services amounted to as much as $150,000 annually. Official data show that the market size for the two such markets with which we are most concerned in this case were over $100 million of annual revenue for overseas record carriers, and over $8.7 billion annual sales for communications equipment. Clearly the market shares represented by the vertical, or buyer-seller, relationships between ABC and ITT are so small as to be insubstantial by any legal test. Tampa Electric Co. v. Nashville Coal Co., 365 US 320 (1961); United States v. Columbia Steel Co., 334 US 495 (1948). There is no evidence that the merger would afford either company an opportunity to use the economic power of the other to secure any significant purchases by reciprocity, and there is an unqualified representation that neither company engages in such practice and that the policy of ITT is against any such practice. The record is persuasive that there is no substantial probability that the merger will lead to any such abuse of economic power.

22. One of the principal issues that concerned the Commission in this proceeding was whether the large business interests of ITT might be permitted to exert an influence on the broadcasting activities of ABC, and particularly whether there would

be any commercial influence on the performance of the journalistic function—the reporting of news and news commentary—or on the selection, scheduling or treatment of public affairs programming. We recognize the large stake our society has in preservation of the freedom of broadcast stations and networks from the intrusion of extraneous private economic interests upon programming decisions. Thorough, fearless and unbiased collection, dissemination and analysis of news is, we think, crucial to a free society. There is widespread and growing reliance by the public upon broadcast sources of news and news commentary, and upon public affairs programming and other kinds of information programming. We have, therefore, been attentive to the positive assurances which both ABC and ITT gave us and the public on this score.

The ITT letter of July 25, 1966, stated:

> "ABC will operate as a substantially autonomous subsidiary. As we have stated in the applications, the broadcasting operations of ABC will be kept separate from other ITT operations and the operations of ABC as a licensee will be performed unaffected by commercial, communications or other similar interests of ITT."

Officials of both ITT and ABC were examined at length on this point by several Commissioners. These assurances were reiterated and elaborated with emphasis. It was represented to the Commission that not only would ABC conduct its broadcasting operations without control or influence by the other commercial interests of ITT but also that the news department within ABC is substantially autonomous and is permitted to conduct its journalistic functions free of control or influence by advertisers or the commercial interests of ITT. The assurances and representations on this point were persuasive and we accept them as credible. The autonomy of the news department is also stated to mean that there has been and will be factual and objective reporting of news and discussion of public affairs, neither distorted nor influenced by the personal views of those in ABC outside the news department. In determining that the concerns which have been expressed in this area have been unaccompanied by showings of injury or jeopardy to the

public interest such as would warrant withholding our consent to the merger, we neither discount the importance of freedom of the broadcast journalistic function—it would be hard to single out a more vital element of broadcast service—nor do we treat the matter as closed. It demands "eternal vigilance" by all broadcast licensees and will receive our continuing scrutiny for any indication that our reliance upon the assurances and safeguards set out on this record was not warranted. We rely, in reaching our decision, upon the multifold assurances on this record that the freedom of ABC's programming from the intrusion of considerations stemming from ITT's numerous and important; non-broadcast interests will be zealously and effectively protected by every available means. While this freedom has especial importance in the field of broadcast journalism, we rely on its application to the other sectors of ABC programming as well.

23. The principal reason for the proposed merger is the need of ABC for more funds than are available to it without the assistance of ITT. ABC is one of four national radio networks and three national television networks. NBC and CBS are the other two major networks, and each has both a radio and television network. ABC has more radio affiliates than NBC or CBS, although fewer than Mutual. In every other respect, ABC lags behind the other major networks. In relation to NBC and CBS, ABC has fewer television affiliates, a smaller share of the audience for both radio and television, less revenue from both radio and television, less profit and smaller assets. During the last three years the ABC television network has operated at a loss, while the other two major networks have had substantial and increasing profits. Program expenses have been increasing rapidly during recent years, and have increased more rapidly than revenue for ABC. The cost of providing news and public affairs programs has increased more rapidly than the cost of other network programs presented by ABC.

24. ABC is now confronted with the necessity for making large additional capital investments for conversion of network equipment to color broadcasting, for purchasing and furnishing a headquarters building and for constructing and equipping new studios. These expenditures will total over $140 million.

Network programs will cost about $2,650,000 each week. Special features, including documentaries and coverage of extraordinary news events will cost unpredictably large sums beyond this. Commitments made under existing loan agreements limit further borrowing by ABC to $6 million. ITT, on the other hand, has a current line of bank credit of $140 million and cash on hand of some $30 million. It also has available substantial amounts of authorized and unissued stock and the ability to create substantial long term debt within the terms of its most restrictive debt instruments. ITT has committed itself, specifically and unequivocally, to provide the financial support to ABC that is needed to enable ABC to become more fully competitive with the other major networks and to fulfill its public interest responsibilities. In the absence of the financial assistance that it will receive from the proposed merger it appears that ABC will be at a substantial competitive disadvantage and will be handicapped in its efforts to provide the programs and services to the public that it seeks to provide.

25. The principal argument against approval of the proposed merger is that it will be another step toward greater economic concentration, that we should beware of unduly large size in business, and that broadcasting interests should not be permitted to engage in such diverse and substantial business operations as ITT. The argument based on size arises mainly from concern about the overall size and business ranking of ITT. ITT has approximately $1.7 billion in sales, $2 billion in assets, and ranks as this country's 30th largest industrial corporation. Fortune, July 15, 1966. However, size is relative and any measurement of concentration must be based upon the share of some specified market. See the notice issued by the Small Business Administration on Small Business Size Standards, 31 Fed. Reg. 12024 (Sept. 14, 1966). The merger of ABC and ITT will not increase ITT's share of the industrial market. The parties believe that ITT with its large financial resources will help ABC increase its share of the national television revenues. While we believe that the merger will strengthen ABC's competitive effectiveness, there is no visible prospect that it would enable ABC to dominate the market. If the merger can be said to increase economic concentration at all, it is only within the broad

framework of the general economy. However, in this setting the size of ITT is not so large as it is in a more narrowly defined market. There are 17 banks that are larger, 15 life insurance companies, 5 merchandising companies and 4 utilities, as well as the 29 industrials. Fortune, July 15, 1966. One of the major networks (NBC) is a subsidiary of RCA, a company that is larger than ITT. There are many broadcasting licensees of the Commission that are large and diversified companies, engaged in the widest varieties of business enterprise, including some industrial companies larger than ITT.

26. In the foregoing circumstances, it does not appear fair or proper to forbid the merger of ABC and ITT because of rather vague fears of potential evils of size. An important aspect of this matter is that approval of this merger will not increase the concentration of broadcast holdings in any way. The structure of broadcasting will be the same after this merger as it was before it, except for the additional strength that will accrue to ABC as a network because of the stronger financial position it will secure through the merger. Insofar as it is possible to predict consequences in such a situation as this, it appears more reasonable to foresee greater competition and benefit to the public, rather than the contrary, as a result of this merger. Television networks exist in a world of economic giants. The largest television advertiser spends almost as much annually on television advertising as the total revenue that ABC derives from its television network in a year. Some of the large television advertisers are larger than ABC or ITT, or both combined. The ABC network is wholly dependent on AT&T for its network connections; and AT&T has an annual net profit that is slightly larger than the annual gross income of ITT. The second largest domestic telephone company, which is small in comparison to AT&T, is still larger than ITT. In these circumstances, there seems less danger that ABC will be subject to improper or undesirable economic pressure or influence as part of a diversified corporation that is itself economically large and strong, than if it is forced to continue as a relatively smaller and weaker enterprise. In view of the representations and assurances that have been given on the record in connection with

this merger, as well as the facts that our examination has disclosed, it appears that this merger will tend to provide assurance of the continued independence and integrity of the network operation of ABC.

27. Our review of the whole record persuades us that the merger of ABC with ITT promises unquestionable public benefits in at least three important areas. First, ITT's larger financial resources will strengthen ABC's capacity to compete effectively with the other two national television networks.

28. Second, the merger promises for the broadcast public even more tangible benefits than the not inconsiderable feature of invigorated competition among the major national television networks: it promises meaningful enhancement of ABC's network and station programming services to the public. With an enlarged financial base—on which ITT has made unqualified commitment on a scale which assures ABC of at least $50,000,000 more financial support than it could otherwise reliably anticipate during the next several years—ABC will provide among other things enlarged news and public affairs services, speedier conversion to color and substantial new facilities for program production.

29. The merger holds out promise of a third major benefit, which while it is not unrelated to the other two, represents a decided public gain: that is, the added support ITT has undertaken to give to the advancement of UHF broadcasting. That support is two-fold. First, programming improvements can be expected to increased the capacity of UHF affiliates of the ABC network to attract audiences and advertisers and thus strengthen UHF's competitive potential with VHF stations. This can ease the way toward the fuller use of other UHF channels in the communities concerned. The other benefit to UHF is ITT's declared interest in the advancement of UHF technology.

30. Given the clear promise of these and associated benefits we are not persuaded that protection against certain hazards which have been envisaged demands the withholding of our consent to the merger. This is not because we attach less importance to preservation of the freedom of a major—or any—broadcast entity to render vital broadcast services undeterred and unin-

fluenced by private, non-broadcast interests under common ownership with the broadcast enterprise. Fully recognizing this as the sine qua non of a reliable and healthy broadcast service, we nevertheless find in our experience with numbers of other licensees who encompass, along with broadcast interests, large and diversified non-broadcast activities no indication of abuse of their public trust through the intrusion of their non-broadcast concerns upon the objectivity of their news reporting or commentary and no demonstrated detriment in any other programming sectors.

31. Nor do we find in the ABC–ITT union of broadcasting and common carrier activities cause for anticipation that the public interest would thereby suffer. We have been assured that ABC will remain free to advocate before this Commission and other public forums any positions which the ABC management may determine to be beneficial from the standpoint of network and broadcast operations, notwithstanding the existence of opposed views which may be held by other ITT subsidiaries performing common carrier or other non-broadcast communications functions.

32. In all these circumstances, and taking due account of the fact that the merger promises no restraint of competition in the markets for products ITT manufactures or for the advertising and programming services provided by ABC, we are convinced that the public interest would best be served by permitting the realization of the notable public benefits the merger promises, and accordingly find that the public interest will be served by granting our consent to the pertinent assignments of licenses and transfers of control.

33. A number of objections to this merger are urged by dissenting Commissioners. It is argued that (a) ABC is now a healthy and strong network that does not need strengthening; (b) ABC needs affiliates, rather than a stronger financial position in order to be more competitive; (c) the Commission could equalize network strength by more direct, drastic and effective means than permitting this merger; and (d) it is a dangerous "public utility concept" for the Commission to act on the principle that it should attempt to equalize network strength and

position. It seems to us that all of these arguments are based on a misconception of the basic approach that is proper here. As the Supreme Court instructed us long ago "the field of broadcasting is one of free competition. The sections dealing with broadcasting demonstrate that Congress has not, in its regulatory scheme, abandoned the principle of free competition, as it has done in the case of railroads . . . ." F.C.C. v. Sanders Brothers, 309 US 470 (1940). This means that we should seek in our regulatory activities to provide the conditions and permit the business activities that will afford free and effective competition which, while it does not require absolute equality among competitors, cannot be achieved by smaller or weaker competitors unless in critical respects their competitive strength is sufficiently comparable to that of the stronger industry members. It is thus not a part of our function to insure or impose economic equality. We must, however, recognize that a network operation which is losing money is suffering a competitive handicap and that free competition cannot long survive if one such operation is losing money while others are profiting.

34. We are not called upon to impose conditions that will insure a profit for ABC, but neither should we frustrate its efforts to attain a profitable position by forbidding it to enter the same kind of economic relations as its competitor. This is not a "public utility concept" but an "equal protection of law" concept. As for taking more direct and drastic action to equalize competitive positions, such as by forcing a change in the affiliation of individual stations, we consider this unwise, unwarranted, and incompatible with our basic mandate of maintaining a competitive system of free enterprise in the field of broadcasting. Such action would come very close to public utility type of regulation. It would involve a far more drastic intrusion into the economic operation of broadcasting than any we have yet undertaken or than we have so far thought authorized or justified. Our present view is that it is far preferable to permit licensees and networks to achieve competitive equality by their own efforts and to avoid handicapping them by unequal limitations than to try to impose equality upon all by direct control and rearrangement of broadcasting affiliations. There is certainly no occasion for adopting such an approach in this

situation where we are offered an alternative of much less radical nature.

35. It is true that the proposed merger does not *directly* meet the need of ABC for better facilities and more affiliates. However, the record establishes that it will strengthen the financial position and technical resources of ABC and thus permit it to expand its staff, particularly in the field of news, to take greater risks and make long range commitments for programs, to offer affiliates and prospective affiliates greater assurances regarding future programming, to change to color transmission of television and improve its technical facilities more rapidly than otherwise, and to encourage the development of UHF outlets. All of these things will certainly tend to attract affiliates and permit ABC to compete more effectively for affiliates. We believe that our statutory mandate requires us to permit this, and that this will result in greater competition among broadcasting networks to the benefit of the public.

36. It has been intimated that the foreign investments and interests of ITT somehow are or may be disqualifying. The record is quite clear and complete on the point that ITT has extensive foreign investments. The Commission is well aware of this, and has considerable detailed information regarding these beyond that which appears in this docket, since ITT, as an American corporation engaged in international record communication (like RCA), has been a licensee of the Commission since the Commission was established. The fact and extent of ITT's foreign interests is an element that should be and has been weighed carefully in our consideration of this matter, and we have examined these foreign business interests in considerable detail. We know from our experience in the regulation of communications that many of our large broadcasting licensees and the two other television networks also have substantial foreign interests, including subsidiary corporations in many countries. We have seen no evidence at any time that any of these foreign interests have influenced any of the programming presented in this country. There is no reason to assume or suspect that any such influence will occur in the case of ITT. Indeed, we have much greater assurance in our judgment of ITT than is ordinarily the case with a new broadcasting applicant.

As ITT has been a common carrier licensee of the Commission since the Commission was established, we have observed its operations and kept informed as to its interests and activities continuously. Its record has been exemplary. We also have explicit and emphatic assurances in the present record that the broadcast programming activities of ABC will not be subject to detrimental influences arising from other financial interests of ITT. These assurances are positive, credible and persuasive. We also note that the Communications Act sets specific standards on this point by limiting the proportion of alien ownership interest which is legally permissible in a broadcast licensee, 47 USC sec. 310. ITT, less than 8% of whose stock is alien-owned, and all of whose officers and directors are American citizens, goes much beyond compliance with the statutory standard, which would bar a grant on the ground of alien ownership only if aliens or foreign governments owned over one-fourth of the capital stock of a corporation (ITT, here) owning a licensee corporation, or if any officer or more than one-fourth of the directors of such parent corporation were aliens—and in such cases only upon an affirmative finding by the Commission that the public interest would be served by denying consent to the acquisition. Nor does the fact that ITT's ownership of foreign subsidiaries is shared to varying degrees with aliens realistically hazard alien influence upon the broadcasting operations of an American subsidiary of the American ITT parent corporation. Nothing of which we are aware in the history of ITT's operations abroad or in the United States suggests that it has ever been or would in the future be neglectful of its loyalties or responsibilities as an American Company, or that aliens associated in the ownership and management of overseas ITT companies would by some sinister and unexplained means exert influence upon the interests of the United States broadcast public. It does not seem appropriate in this case for us to go far beyond the statute to establish some very strict but vague rule against "foreign interests," (which would surely disqualify a number of major broadcast licensees).

37. An issue that has been suggested is whether there may be a conflict of interest between the broadcasting interests of ABC and the common carrier interests of ITT. It should be noted

that if there were any such conflict, it would relate only to international operations, since ITT is not a domestic common carrier. The overwhelming proportion of a domestic network's common carrier usage is domestic, and the international part is, at most, relatively minor. As to this minor part, there may be some conflict of interest between the desire of the broadcaster for lower rates and the desire of the common carrier for higher rates. This conflict does not seem to have caused any difficulties in the case of NBC and RCA, which have a larger volume in both fields than ABC and ITT. However, we also know that communication, particularly in the international field, is entering a new era in which satellites, and possibly other techniques, will be of increasing importance. Satellites are owned by a separate statutory corporation, the Communications Satellite Corporation. Within the United States, ABC, as well as the other networks, must rely upon A.T. & T. for long distance carriage. Thus one of the most important elements in the future position of ABC is likely to be its ability to exert what has been called "countervailing power" in relation to international satellite communications and domestic telephone lines. Its position in this respect would be immeasurably enhanced by a merger with ITT. Furthermore its ability to cope with the unforeseeable complexity of evolving communications technology will be of paramount importance to it. In this respect, too, it will be greatly strengthened by merger with ITT. These considerations are of such preponderant importance in relation to the very minor possibility of conflict of interest regarding international cable rates, that the balance on this issue overwhelmingly favors the merger.

38. The dissenting Commissioners express certain fears of possible abuses arising out of an ABC ITT merger, and point to the fact that the Commission has established multiple ownership rules, prohibitions against overlap of commonly owned stations, network rules, and other rules based upon a purpose to prevent structural relations that have been thought to involve dangers of abuse. If the transfers involved here were contrary to any of these rules, they should not be approved. However, the Commission has, over the course of time, promulgated

these rules to prevent just those structural relations as are thought to present undue dangers of abuses by themselves. The proposed merger does not transgress any such rules, and consequently is fully consistent with structural relations in the industry which the Commission has, up to the present time, not only permitted but approved. The fears expressed as to potential abuses arising out of the proposed merger are based only on speculative possibilities. Of course certainty is not attainable when we are dealing with judgments as to the future, and we can only exercise our best judgment in full awareness of the fallibility of all human prediction. However, we believe that the Commission must act on the basis of reasonable probabilities, not of mere speculative or hypothetical possibilities. We have based our conclusions on the past performance of the parties involved, on express, positive and binding representations as to future performance, and on our own accumulated experience and observation of other enterprises in similar situations and of the entire economic, social and technological milieu in which applicants must exist and operate. This appears to us to be the best and soundest basis for judgment in this matter.

39. The basic issue that is presented in arguments against this merger is whether broadcast licensees should be restricted to broadcasting activities or should be permitted to have other business interests. In all fairness it must be conceded that there are arguments to be made on both sides of this issue. However, since the beginning of broadcast licensing the Commission has licensed manufacturers of radio receiving equipment, other manufacturers and industrial enterprises, church groups, labor groups, newspaper publishers, and other enterprises engaged in a vast variety of business activities. Proposals to exclude particular business interests, which have been made from time to time, have met with little sympathy or success in Congress, and have not been adopted to by the Commission. It is too late in the day to argue that such outside business interests are disqualifying. In any event, we must apply the same principles to all licensees. *Melody Music, Inc.* v. *F.C.C* 345 F2d 730 (CA, DC 1965); *Mary Carter Paint Co.* v. *F. T. C.* 333 F2d 654 (CA 5th 1964). We cannot in this case adopt standards which when

applied in other cases would require us to restructure the industry unless we are prepared to undertake that task. We could not in good conscience forbid ABC to merge with ITT without instituting proceedings to separate NBC from RCA, both of which are bigger than the respective principals in this case. The fact that this proceeding involves applications to transfer licenses rather than to renew licenses is not controlling since precisely the same legal standards apply to transfers and renewals. 47 USC sec. 307(d). Consequently the position contended for in the dissent would require the Commission to refuse to renew the station licenses now held not only by the other networks, but even by the numerous large conglomerate corporations that hold broadcasting licenses. While some may think that such actions are desirable, we are not persuaded that they would be in the public interest.

40. While there may be imperfections in the structure of the American broadcasting industry, it has, on the whole, served the American public well, and we are not convinced that any substantially different structure would perform better or serve the public better. This Commission exercises a continuing supervision over the American broadcasting industry, and seeks to prevent abuses and improve its structure and operation within the limits of the power Congress has conferred on the Commission. As previously mentioned, we will have and exercise such power over the applicants here, as over all other licensees. We think it wiser and more in the public interest to continue to follow this course, which is the course that has been followed by the Commission since its beginning and which Congress has both explicitly and implicitly approved, than to take this case as the starting point for a radical restructuring of the entire broadcasting industry.

41. The Hubbard Petition to Deny raises no broad questions concerning the merger as a whole, but is based solely on inclusion of WABC in the merger. Hubbard argues that ABC has no license for WABC which is capable of being assigned, since its application for renewal is still pending, and that assignment would deprive Hubbard of a comparative hearing against ABC as it now exists. We do not regard either argument as meritorious. Since there is no question as to the assignor's basic

qualifications, this situation is not analogous to those in which the Commission first resolves a challenge to the licensee's qualifications before acting on an application for assignment. Until determination of the future use of the WABC frequency, all that is assignable by ABC is the right to continue operation of WABC pending action upon its license renewal application, but that much is assignable. In re application of Stevens Broadcasting, Inc. and Fred P. D'Angelo, FCC 64–988, 3 RR 2nd 840, 843 and 844 (1964) aff'd on other grounds *sub nom Parr* v. *Federal Communications Commission,* 120 U.S. App. D.C. 151, 344 F 2nd 539 (1965). Such an assignment will not abridge Hubbard's *Ashbacker* rights. It is undisputed that Hubbard is entitled to a hearing in which its application for a new station at New York City must be considered comparatively with WABC's renewal. In *American Broadcasting-Paramount Theatres, Inc. v. FCC,* 120 U.S. App. D.C. 264, 271, 345 F. 2d 954, 961 (1965), the Court of Appeals upheld our decision to defer comparative hearings on Hubbard's pending application for a new station on 770 kc at New York City, which is mutually exclusive with ABC's pending application for renewal of license of WABC, until we have resolved the antecedent question of the best mode of utilizing 770 kc at New York and at Albuquerque, New Mexico. This question has been the subject of a 20 year old dispute between the licensee of radio station KOB, Albuquerque (presently Hubbard) and ABC. Hubbard argues that while it does not object to the Commission's consent to the proposed license assignments and transfers of control pertinent to all the other ABC owned stations, it is entitled to a comparative hearing with ABC as presently constituted. Clearly, however, even if it were practicable—and this has not been shown—to sever WABC from the merger, Hubbard could not thereby be afforded a comparison with ABC as presently constituted, since all other properties and activities of ABC would have become merged with ITT. Thus, only by deferral of our consent to the transfer of any of the ABC stations to a new subsidiary of ITT could Hubbard's alleged objective be attained. We find no warrant for deferring our action upon the merger proposal and for consequent deferral of the public bene-

fits we have found it would bring, in order to preserve the status quo of ABC as the licensee.

42. In order to ensure the preservation of Hubbard's rights, we wish to make it clear that our approval of the assignment of ABC's present authorization for continued interim operation of WABC pursuant to 47 U.S.C. Sec. 307(d) and 5 U.S.C. Sec. 1008(b) is without prejudice to any procedural or substantive rights of Hubbard and without determination of or prejudice to any of the issues involved. With that caveat, and finding that no substantial or material question of fact is presented and that the public interest will be served by granting our consent, at this time, to simultaneous license assignments and transfers of control for all of ABC's broadcast stations in order to permit the orderly effectuation of the ITT–ABC merger under arrangements agreed between ITT and ABC and found unobjectionable by us, we shall deny the Hubbard Petition to Deny.

43. Accordingly, IT IS ORDERED, That the pending applications for assignments of license and transfers of control for the broadcast stations whose call letters are listed in the caption, herein, ARE GRANTED: and the staff IS INSTRUCTED to grant the pending applications for our consent to assignments and transfers of the ancillary radio licenses held by ABC and its subsidiaries; PROVIDED THAT, in the case of WABC, New York, New York, our consent herein granted goes only to the assignment of that station's continuing authorization to operate, pursuant to 47 USC Sec. 307(d) and 5 USC Sec. 1008(b), during the pendency of its application for license renewal (BR–167) and without prejudice to the rights of Hubbard Broadcasting, Inc., relating to comparative consideration of its pending application for a new station at New York City on 770 kc (BP–13932) which is mutually exclusive with ABC's pending renewal application for Station WABC. IT IS FURTHER ORDERED, That the Petition to Deny the application of American Broadcasting Companies, Inc. for assignment of license of radio station WABC, New York, New York (BAL–5734) filed May 11, 1966 by Hubbard Broadcasting, Inc., IS DENIED. The Joint Motion to Cor-

rect Transcript filed October 24, 1966 by ABC, ITT and Chief, Broadcast Bureau IS GRANTED.

44. IT IS FURTHER ORDERED, That ITT's responses to requests dated November 2, and November 23, 1966 for the submission of additional information, which ITT filed on November 17 and December 9, 1966, and all the matter filed together with those responses, BE MADE PART OF THE RECORD of this proceeding.

45. There remain for disposition ITT's requests that the portions of its filings listed in Appendix I hereto be designated as not for public inspection pursuant to Section 0.417(a)(5) of the Commission's rules. Those submissions, which consist of stockholder lists and agreements between ITT and foreign governments contain details which do not add significantly to the remainder of the record, which is public. We find that no useful purpose would be served by public disclosure either of the identity of listed stockholders of ITT or of the agreements, which contain commercial and financial information of a kind customarily treated as confidential. Good cause having, accordingly, been shown, IT IS FURTHER ORDERED, That the portions of ITT's submissions listed in Appendix I hereto ARE DESIGNATED AS NOT FOR PUBLIC INSPECTION.

FEDERAL COMMUNICATIONS COMMISSION,
BEN F. WAPLE, *Secretary*.

Released: December 21, 1966.

APPENDIX I

Portions of ITT's submissions designated not available for public inspection in accordance with Section 0.417(a)(5) of the Commission's Rules:

(1) Listing of the 10 largest owners of ITT stock in each foreign country and all foreign owners of 100 shares or more of ITT stock (Submitted with Item No. 8 attached to ITT's letter of November 17, 1966).

(2) Memorandum of Agreement between the Government of Chile and ITT dated February 6, 1965 (Submitted with ITT's answer to Question No. 1 filed December 9, 1966).

(3) Illustrative examples of major agreements between ITT and foreign governments and entities and copies of all ITT's foreign licensing agreements producing revenues of more than $100,000 per year (Submitted with ITT's answer to Question No. 3 filed December 9, 1966).

PART II. DISSENTING STATEMENT OF COMMISSIONER ROBERT T. BARTLEY

I vote against granting consent to the proposed merger of American Broadcasting Companies, Inc., into the International Telephone and Telegraph Corporation—based on the record before us.

A more orderly procedure may have reduced the number of dissenting opinions. As it is, none of the dissenters has had adequate time to consider the drafts of the others so we have not had an opportunity to consolidate our views, eliminate duplications and present a document which would better inform the public of the dangers we foresee.

The Commission's "oral hearing" in this matter was an unusual proceeding which did not conform to the hearing requirements of Section 309(d) and (e) of the Communications Act, and, in my opinion, the self-serving record which was developed in the proceeding is defective to support a grant of the applications.

There is adequate time for the development of a proper record in this case. ABC and ITT have provided therefor by the terms of the merger agreement which automatically extend the termination date to December 31, 1967, "to obtain the required order of the Federal Communications Commission."

The Commission has rushed into an approval of the merger without more than superficial attention to a study from the U.S. Department of Justice in which it states that the merger may have substantial anti-competitive consequences. The Department's study, in a letter dated December 20, 1966, was received by the Commission after the close of business on the 20th, and the Commission majority acted to approve the merger the next day, December 21, with no further ado as to the anti-competitive consequences pointed out by the Department.

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The merger of ABC into ITT poses fundamental questions of highest importance to the maintenance of a responsible and competitive broadcast structure for our country. Network broadcasting—particularly network television—is a social, political and economic instrument of vast and increasing impact on our society. This merger would place a major share of our national broadcast service—particularly our television service—under the direct ultimate control of an expanding conglomerate corporation, international in scope, heterogeneous in character and largely extraterritorial in orientation and operation, with the inherent danger of the broadcast operations becoming a public relations tool of and image builder for the corporate conglomerate and little attention given to the local needs of the public which the broadcast operations are charged with serving. The Commission's failure in its "oral hearing" to give adequate consideration to the far-reaching effects of the merger on the structure of competitive broadcasting in our country, and the Commission's failure to give adequate consideration to the anti-competitive consequences cited by the Department of Justice, demonstrate an apparent need for Congress to study the matter of licensing broadcast stations to corporate conglomerates and enact legislation definitive of national policy with respect thereto. I urge such Congressional action at the earliest practicable time.

The proposed ABC-ITT merger is contrary to the public interest, I believe, because principally, the ABC-owned stations and the ABC radio and television networks, which are media of mass communications that affect daily the thoughts and lives of the public, would be oriented in and dominated by a gigantic ITT industrial combine with substantial and far-flung interests in foreign countries, in military and other government contracts, and in communication common carrier service. An orientation and domination in which the public interest responsibilities of the broadcasting subsidiary would be subverted to the private, and oft-times conflicting, interests of the total corporate conglomerate with its inherent responsibilities to investing stockholders.

A brief summary of the make-up of ITT is necessary to put in proper perspective the serious public interest questions which the merger raises.

ITT is a gigantic corporate conglomerate, an industrial combine with far-flung interests in at least 66 countries. Its consolidated net income of $1.8 billion in 1965 was about 60% from foreign operations and 40% from domestic systems.

ITT is engaged in domestic and foreign manufacturing, the operation of telecommunication utilities, and financial and other service activities. It is a leading international record carrier. Its foreign manufacturing subsidiaries produce consumer goods as well as electronic and telecommunications equipment for sale to foreign governments and other agencies operating telecommunications systems. ITT claims to be the world's largest manufacturer of telecommunications equipment. Its *domestic* manufacturing includes telecommunications and electronic equipment related to defense and space activity. Most of this work is done under government contract. A substantial amount (39%) of domestic sales revenues comes from the manufacture of a variety of industrial products, including air conditioning, heating and ventilating equipment, pumps, motors, wire cable, etc. It also engages in a number of finance and other service activities, largely in the United States. It owns the Avis car rental service, several finance subsidiaries, several insurance companies, an investment fund, a small loan company, and the recently acquired Howard W. Sams & Co., a diversified publisher and printer of books, textbooks, magazines, and training and reference services—and Airport Parking Company of America, one of the world's largest parking companies.

Attachment A hereto is a partial listing of ITT's world-wide conglomerate companies.

Moreover, on page 9 of ITT's 1965 Annual Report, it is stated: "A largely different company today from what is was yesterday, ITT will also be different in 1969 when it completes its second five-year growth plan." The Commission does not know what ITT will be in 1969 except that it will be "different," yet the Commission majority closed its eyes to the future in consenting to an assignment to this unknown "different" colossus.

In the merged corporation, ABC's broadcasting activities would appear to account for 13% of ITT's overall revenues. I feel that in conflicts of interest the 13% broadcasting division will be subordinated to the 87% non-broadcasting divisions and, as indicated above, from the point of view of the responsibility of ITT's management to its stockholders, such a result would seem to be an inherent necessity. To expect any other result would seem to me to be unrealistic and contrary to human experience.

One possibility, among many, of conflict between ITT, the broadcast trustee, and ITT, the conglomerate international entrepreneur, is the following: The 87% ITT entrepreneur has for its customers many of the governments of the western world—including the government of the United States. Whatever may be the stated intention of the present executives of ABC and ITT, it seems apparent to me that the 13% ITT as an electronic journalist and cultural agent could not escape or withstand temptations and pressures to favor or protect individuals or governments whom the 87% ITT might desire or require as customers. No deliberate intent on the applicant's part to avoid its public responsibility is suggested. Premeditated falsification of news or distortion of fact is not suggested. I am suggesting—as a dangerous possibility—selectivity in subject matter and scheduling (in the interest of corporate advantage and harmony) a more subtle yet effective means of opinion manipulation and "image making." There appears to be on the face of these applications natural conflicting temptations in the mesh of economic and practical circumstances in which ITT as a broadcast-trustee would find itself. It would seem axiomatic that the greater the variety of interests which might be the natural objects of the licensee's bounty, the greater the potential of conflict of private with the public interests.

I do not believe that the mere fact of a "commitment" by Mr. Geneen, now President of ITT, to operate the broadcasting enterprise free of commercial influences is sufficient to negate the probability that such influences would be a real and present danger to a large segment of our broadcast structure. Even though I do not disbelieve the emphatic statements of present

intention to which Mr. Goldenson, President of ABC, and Mr. Geneen have given voice, carrying them out would seem to me to fly in the face of the probabilities of human nature and the needs of commerce. Also, it must be realized the assignment is to a corporation, not to Mr. Geneen and Mr. Goldenson. Either or both could, at any time, sell their interests and be out of the corporation. Thus, we must look to the corporation, rather than to Mr. Goldenson and Mr. Geneen. Moreover, the "commitments" of Mr. Goldenson and Mr. Geneen assume less significance and reliability since it is well known that in television production there are unwritten taboos which are constantly in the minds of writers and producers. Furthermore, there would no longer be network and station employees who owned ABC stock but might well own ITT stock. For such reasons as the foregoing, and others, the Commission has established various rules and policies where the probability of damage to the public interest is inferred directly from structural situations closely analogous to that presented here. This is the case with our multiple ownership rules, our duopoly rule, our prohibition against the operation of two networks by the same person, our prohibition of network spot representation, etc. In such cases, the stated intentions of the applicant, no matter how solemnly made, are immaterial. I believe the same test is applicable here.

The hearing in this proceeding is, I believe, legally defective. The Commission majority ordered it as an "oral hearing" and constituted it with unique procedures. The seriousness of the matter before us required that such a hearing contain all the safeguards established by statute. Section 309(d)(2) of the Communications Act provides that "if the Commission for any reason is unable to find that grant of the application would be consistent with subsection (a)", it shall set the application for hearing as provided in subsection (e). Those provisions were not met in this proceeding.

Moreover, Section 311(a)(2) of the Act requires that "if the application is formally designated for hearing in accordance with Section 309, [the applicant] shall give notice of such hearing in such area at least ten days before commencement of such hearing." No showing is made by the applicant, as re-

quired by Section 1.594(g) of our rules, that such notice was given.

One of the purposes of the statutory requirement is to make the proposed transaction known to parties who may want to oppose it and appear at the hearing. The Commission majority makes much of the point that no oppositions were filed against the merger. This point becomes meaningless in face of the fact that notice of the hearing was not given as provided in the Act and our rules. Although the Commission can waive its own rules, it cannot waive the statutory requirement.

The proceeding produced an inadequate record from which to make an informed judgment that the proposed merger would meet the statutory requirement of serving the public interest, convenience and necessity. The "oral hearing" had unique procedures by which ABC and ITT made presentations to the Commissioners *en banc*. The Commission's Broadcast and Common Carrier Bureaus stated overall questions of law and policy. Neither the Broadcast Bureau nor the Common Carrier Bureau was made a party to the proceeding for the usual purposes of presenting witnesses, expert or otherwise, or engaging in cross-examination of the applicants' witnesses. Consequently, the proceeding was an array of witnesses for the applicants only, with self-serving statements unchallenged in the crucible of an adversary case involving cross-examination, except for independent questions by some of the Commissioners.

The majority's decision herein does not even make findings on the following questions presented by the Broadcast and Common Carrier Bureaus in their (1) September 14, 1966, advance summary of questions, and (2) Statement at the "oral hearing":

"ADVANCE SUMMARY OF QUESTIONS"

"Merger of Separate Communications Roles"

* * * * * * *

"Examples of matters involving actual or potential opposed interests of the network-broadcaster versus the common carrier:

(a) Possible network vs. common carrier ownership of a satellite transmitting from U.S. source to network affiliates in the United States.

(b) The authorized user question.

(c) Rates and practices governing satellite transmission of television programs between the United States and other countries both ways.

(d) Charges and practices governing services such as transmission of Gemini splash downs.

(e) For the future, looking ahead to predicted television broadcasting from source via satellite direct to home receivers: Is it desirable that the roles of ownership and operation of such satellite facilities be fused with ownership and operation of major program sources such as national networks which determine the composition of programming directed to the public?"

"Effects Upon Competition

(a) Would the merger of ABC with ITT create competitive conditions which would impel CBS toward a similar merger with further intensification of the resultant concentration of control over mass media?

(b) Would the competitive strengthening which it is claimed the merger would afford ABC heighten the difficulties of establishing another competitive national television network?

(c) Would ITT's ownership of ABC, comprehending national television and radio networks and 17 major broadcast stations, adversely affect competition in the sale of equipment used by networks and stations?"

"STATEMENT AT THE ORAL HEARING"

(a) In view of ITT's declared intention of expanding domestic manufacturing and service activities, would its ownership of major television and radio networks and 17 major-market broadcast stations adversely affect freedom of competition in the solicitation and placement of broadcast advertising?

(b) Would ITT's ownership of ABC, comprehending national television and radio networks and 17 major broadcast stations, adversely affect competition in the sale of equipment used by networks and stations?

* * * * * * *

. . . whether ITT and ABC have sufficiently shown what programming enhancements the merger would assure, their approximate cost and ITT's rock bottom commitment of enough financial backing to defray that cost."

The previous merger of ABC with Paramount, which involved no less magnitude than the presently proposed merger of ABC-Paramount and ITT, was tested in an evidentiary hearing of several months duration. The proceeding and the record in this two day presentation is grossly inadequate. In the ABC-Paramount merger, the burden of proof was on the applicant. In this merger, the burden of proof seemed to be, improperly, on Commissioners who questioned whether it was in the public interest.

I believe that in the "oral hearing", limited as it was, the applicants' attempts to establish ABC autonomy in the ITT corporate conglomerate, their attempt to show lack of ABC viability, and their attempt to indicate a public interest by the merger—were demolished.

It now clearly appears that the broadcast operation of ABC will be under the control of the overall management of ITT. The merger agreement between ABC and ITT provides that ABC will be a wholly-owned subsidiary of ITT, with some cross representation on the board of each for at least 3 years; and that during the 3 years, matters of major importance in the ABC subsidiary are to be submitted to the ITT board becoming effective. Testimony in the "oral hearing" by Mr. Geneen, President of ITT, demonstrated that ITT would decide matters of major importance in the ABC subsidiary and that ABC's "autonomy" would be merely a housekeeping function of day-to-day operations.

ABC had contended that the merger was necessary to help make the ABC television network more fully competitive with

the NBC and CBS television networks. The contention fell in the "oral hearing" by testimony from which it is clear that ABC is already viable and that the merger would not remedy the lack of VHF affiliate stations which ABC has long claimed to be its television network's obstacle to fully competitive status.

The applicants' attempts to indicate a public interest benefit from the merger rested on the projection of ABC's becoming more fully competitive with the other television networks—through better programming, quicker implementation of full color facilities, and a cushion against pressure from ABC's own board to take less risk on new ideas in programming. ABC's better programming projection rested heavily on building its news and public affairs operations. This attempt also fell in the "oral hearing" by testimony, as indicated above, that becoming fully competitive was realistically a matter of more VHF affiliates, and that better programming does not necessarily result from more money since ABC's television programming has been fully competitive in markets where it had VHF outlets.

On the matter of quicker implementation of full color facilities ABC did not show that financing therefor was not possible through means other than a merger with ITT.

In the hearing proceeding, Mr. Goldenson stated that ABC may need approximately $50 million over a 3 year period for its proposed plans. There is no persuasive showing that ABC, with a working capital of $90 million in 1965, could not secure an additional $50 million over a 3 year period through other avenues, e.g. merger with a corporation which does not pose the problems of ITT, issue additional stock, seek debentures, or even an additional loan. Significantly, ABC has not indicated that, in the absence of the merger with ITT, it will not go forward with its proposed expansion plans.

The basic thrust of ABC's justification for the merger is that it is needed to make ABC fully competitive with NBC and CBS. ABC points out that it loses money on its TV network operation while the other two networks make a substantial profit on theirs. If one network has an *unfair* competitive advantage over another, the solution is to eliminate that *unfair*

competitive advantage rather than to authorize equalizing *unfair* competitive advantages.

ABC and ITT failed to make a compelling affirmative showing as required under the Commission's interim policy on ownership of TV stations in the top 50 markets. The majority decision states that the interim policy applies to these applications and that the "oral hearing" held satisfied the requirements of the policy statement.

The testimony presented in this proceeding was irrelevant to the said interim policy statement. That statement applies to television *stations*. The applicants' testimony was on the alleged merger need, not of ABC's owned TV stations, but of the ABC *television network,* comprising some 137 affiliates owned by others than ABC.

ABC made no compelling affirmative showing pursuant to the said policy statement in regard to its owned television stations. Indeed, ABC could not make such a showing, in light of the highly favorable position of its owned stations indicated in ABC's 1964 and 1965 Annual Report. Certainly ABC made no showing that, whether the hearing requirement itself was satisfied procedurally, the merger would implement the diversification of control of broadcast stations in the top 50 markets as espoused in the said interim policy statement.

Section 310(b) of the Communications Act provides that no license shall be assigned except upon a finding by the Commission that the public interest, convenience and necessity will be served thereby. The burden was on the applicants to establish that the merger would serve the public interest, convenience and necessity. In my opinion, the applicants have failed to meet their burden.

Deficiencies in the Majority's Memorandum Opinion and Order

The Memorandum Opinion and Order by which the majority grants consent to the proposed merger is deficient in many respects. In paragraphs 7 through 13, the Commission majority lists the "departures" it made from regular procedures and concludes that they were "the most adequate in the circumstances of this case that our ingenuity could devise." I believe that the

Commission was without authority to use its ingenuity to devise new procedures but was required to conform to the procedures dictated by statutes, i.e. the Communications Act and the Administrative Procedure Act. The Commission did not comply with requirements therein. Moreover, I cannot agree, for the reasons I set forth on pages 4 and 5 above, that the new procedures were adequate. This merger involves a transfer of 17 owned stations, a national radio network, a national television network and ABC's other properties such as Paramount pictures, theatres, etc., into the corporate conglomerate of ITT. The merger proposed here involved is one of the greatest magnitude during my 14½ years as a Commissioner. The extent, depth and scope of the proceeding in this case were far *less* than in transfer cases of even less magnitude. The transfer involving the merger of *ABC* and *Paramount,* the *AVCO* assignment, the *NBC-Westinghouse* assignments and swap—as examples—each consumed months of evidentiary hearing proceedings and were far greater in extent, scope and depth. The "oral hearing" in this case was scheduled for one day. It consumed two days. It must be recognized that this "oral hearing" was minuscule compared to that of other transfers of even lesser magnitude.

In paragraph 18, it is stated that the Commission's interim policy on acquisition of TV stations in the top 50 markets "applies to the present applications," and that the hearing requirement of the policy "has been satisfied by the procedure herein." I have pointed out, above, that the testimony in the "oral hearing" was irrelevent to transfer of ABC's owned TV stations, but related instead to ABC's TV network with over 137 affiliates.

In paragraph 19, it is stated correctly that we must consider antitrust aspects of the merger in light of the public interest. In paragraph 21, it is contended that there would be no elimination of "horizontal" competition and the "vertical" relationship between ABC and ITT is "insubstantial by almost any test," and concluded that:

> "There is no evidence that the merger would afford either company an opportunity to use the economic power of the other to secure any significant purchases

> by reciprocity, and there is an unqualified representation that neither company engages in such practice and that the policy of ITT is against any such practice. The record is persuasive that there is no substantial probability that the merger will lead to any such abuse of power."

Advertising time on network television is a choice commodity, as has been often asserted by those prominent in the industry and has been the conclusion in a number of studies, the most recent of which was contained in the record of the Subcommittee on Antitrust and Monopoly on the Committee on the Judiciary on September 12, 1966. Obviously ABC has a large proportion of this essential commodity for sale. ITT on the other hand, through its subsidiaries, manufactures a great many products for which users and potential users of television advertising time are customers. In these circumstances, there appears to be a reasonable probability of reciprocity becoming involved in the sale of various goods and services by ITT and its subsidiaries and affiliates.

I do not believe that the mere fact of unqualified representation as to neither company engaging in the practice of *reciprocity*—and that ITT's policy is against *reciprocity*—is sufficient to negate the point that the probability is a real and present danger to the operation of a large segment of our broadcast structure. In this connection, I point out, as I did with respect to reliance upon representations concerning freedom from commercial influence on programming, pages 4 and 5 above, that the Commission has established numerous rules and policies in which the probability of damage to the public interest is inferred directly from structural situations analogous to that presented here. In such cases, the stated intentions of the applicant, no matter how solemnly made, are immaterial. I believe the same test is applicable here. (It has not come to my attention that any company, or groups of companies, has a policy of violating the antitrust laws. My information is that, to the contrary, companies generally have firm, expressed policies against violation of the antitrust laws.)

As Judge Learned Hand stated in the NBC v. U.S. case (November 16, 1942):

> "*(The Commission) was created to make such choices because Congress believed that it would acquire in its special sphere a skill which courts could not match; and it is now hornbook law that the conclusions of such tribunals are not to be disturbed except in the plainest case. That doctrine applies here with especial force just because the findings are necessarily prospective; time alone can decide their success or their failure.* The measure of our power is to say whether there was any substantial evidence that the added freedom given to stations will outweigh the reduction in the opportunities which will remain open to the "networks." We cannot say that there was no such evidence. To take the regulation which is the head and front of the Commission's offending—3.104—it indeed does limit the power of a "network" to furnish large advertisers with the time of all its "affiliates," for it must always run the risk that after its last inquiry a station may have "sold" to another "network" the time which it proposed to "buy" of that station. On the other hand, it is certainly possible that the present contracts give the "networks" so strong a hold upon the industry as to keep down competition which would prove beneficial. *Upon such an issue nobody who is not steeped in the details of the business is really entitled to an opinion, and indeed even the opinions of those who are so steeped must be largely speculation. But that does not mean that the industry must be left to itself; the Commission was created precisely to say how far it was best to let things stand, and how far to intervene.*"

In paragraph 22, it is stated that "We rely, in reaching our decision, upon the manifold assurances on the record that the freedom of ABC's programming from the intrusion of considerations stemming from ITT's numerous and preponderant non-broadcast interests will be zealously and effectively protected by every available means." But this reliance of the majority is also prefaced by a caveat that "it demands 'eternal

vigilance' by all broadcast licensees and will receive our continuing scrutiny for any indication that our reliance upon the assurances and safeguards set out on this record was not warranted." The majority seems nervous about their reliance, as indicated by their recognition that they will be required to maintain eternal vigilance.

What tools do they have to make the vigilance meaningful? I suggest that the holdings of ITT are so far-flung and complex that intrusion into ABC programming by divisions of ITT's non-broadcast interests would be immune to detection by me or the other Commissioners. Such policing would be a near impossibility. When such eternal vigilance demands our continuing scrutiny of the particular situation, I believe the better course is to protect the public interest by not allowing it in the first place.

In paragraphs 23 and 24, it is pointed out that the ABC television network operates at a loss, and "In the absence of the financial assistance that it will receive from the proposed merger it appears ABC will be at a substantial competitive disadvantage and will be handicapped in its efforts to provide the programs and services to the public that it seeks to provide." It has not been shown on the record that money from ITT will make ABC fully competitive, because ABC's claimed problem is lack of VHF affiliates in major markets. It is not shown that in the absence of ITT money from the merger, ABC will be handicapped, because ABC had planned the proposed services before talk of a merger with ITT and indicated in the ABC 1964 Annual Report that it was progressing toward accomplishment of those plans. Also, it is not shown that if such money were needed it could not be obtained except through a merger with ITT.

In paragraph 25, it is argued that we should not be alarmed because of the size of ITT—that many other businesses are bigger in size. My main concern is not with size but with the ITT conglomerate here involved and the inherent probability of its adversely affecting the public interest of broadcasting.

In paragraph 26, it is stated that "The structure of broadcasting will be the same after this merger as it was before." To the contrary, the structure will be changed substantially be-

cause the ABC operations, owned stations, radio network, and television network will be meshed into a corporate conglomerate. This substantially lessens diversity of control of our broadcast structure. Presently there is one TV network owned by a corporate conglomerate (NBC-RCA). This merger would make two. As bankers think like bankers, I believe we can expect that corporate conglomerates will think like corporate conglomerates rather than like objective, professional broadcasters. Thus, much less diversity of viewpoint and attitude would result from the merger. This merger presents the Commission with the very basic and fundamental question of whether licenses should be granted to corporations involved in businesses other than broadcasting.

In paragraph 26, it is also concluded that as part of a corporate giant ABC would be less subject to undesirable pressure. If this argument is valid, the next step is to conclude that the objectivity of American broadcasting would be best assured if all networks were under the wing of one giant corporation whose paternalistic power would fend off undesirable economic pressures. If consent to this merger is a trend, we may find all media of mass communications under three beneficent conglomerates.

In paragraphs 27, 28 and 29, the majority points to benefits realized from the merger as (a) stronger competitive stations and (b) better programming by ABC. I have set forth above the reasons in support of my conclusion that neither is dependent upon ITT money. The third benefit found by the majority is "advancement of UHF broadcasting." That is not a valid reason, in my opinion, for permitting the transfer of ABC owned stations, a radio network and a TV network.

In paragraph 30, it is stated that "in our experience" there is no indication of intrusion upon the objectivity of broadcast news and programming by the non-broadcast interests of multiple owners. This is a broad statement which is not supported. Moreover, we do have experience with intrusion of non-broadcast corporate interests into broadcast operations, e.g. the exertion of pressure by RCA–NBC upon Westinghouse to swap stations in Cleveland and Philadelphia so RCA could have an

outlet in Philadelphia, where its laboratories were located. See *NBC–Philco*, 2 RR 2d 921.

I conclude that the Commission majority's Memorandum Opinion and Order is fatally defective to support a grant of consent to the proposed ABC–ITT merger.

Attachment A

The ITT System Worldwide

PRINCIPAL DIVISIONS AND SUBSIDIARIES

NORTH AMERICA

Manufacturing—Sales—Service

CANADA

Barton Instruments Ltd. (Canada), Calgary, Alta.
Cannon Electric (Canada) Ltd., Toronto, Ont.
General Controls Company (Canada) Ltd., Guelph, Ont.
ITT Canada Limited, Montreal, P.Q.
Royal Electric Company (Quebec) Ltd., Pointe Claire, P.Q.
Wakefield Lighting Ltd. (Canada), London, Ont.

JAMAICA

ITT Standard Electric of Jamaica Ltd., Yallahs

MEXICO

ITT de México, S.A. de C.V., Mexico City
- Industria de Telecommunicación, S.A. de C. V., San Bartolo Naucalpán
- Industrias Ocelco de México, S.A., Monterrey
- Materiales de Telecommunicación, S.A., Toluca
- McClellan, S.A., Mexico City
- Standard Eléctrica de México, S.A., Mexico City
- Wyatt de México, S.A. de C. V., Tlalnepantla

PANAMA

ITT Standard Electric of Panama, S.A., Panama City

PUERTO RICO

ITT Caribbean Sales and Service, Inc., Rio Piedras
ITT Caribbean Sales and Services, Inc., Rio Piedras

UNITED STATES

Documat Inc., Waltham, Mass.
Federal Electric Corporation, Paramus, N.J.
  Intelex Systems Incorporated, Paramus, N.J.
  International Standard Engineering, Inc., Paramus, N.J.
  ITT Technical Services Inc., Paramus, N.J.
International Standard Electric Corporation, New York, N.Y.
International Telephone and Telegraph Corporation, Sud America, New York, N.Y.
ITT Arkansas Division, Camden, Ark.
ITT Cannon Electric (division), Los Angeles, Calif.
ITT Controls and Instruments Division, Glendale, Calif.
  Barton Instrument Corporation, Monterey Park, Calif.
  General Controls, Glendale, Calif.
  Hammel-Dahl, Warwick, R.I.
  Henze Valve Service, Hoboken, N.J.
ITT Data Services (division), Paramus, N.J.
ITT Electron Tube Division, Easton, Pa.
ITT Electro-Physics Laboratories Inc., Hyattsville, Md.
ITT Environmental Products Division, Philadelphia, Pa.
  Nesbitt, Philadelphia, Pa.
  Hayes, Torrance, Calif.
  Norman, Columbus, Ohio.
  Reznor, Mercer, Pa.
ITT Export Corporation, New York, N.Y.
ITT Farnsworth Research Corporation, Fort Wayne, Ind.
ITT Federal Laboratories (division), Nutley, N.J.
ITT Federal Support Services, Richland, Wash.
ITT Fluid Handling Division, Morton Grove, Ill.
  Bell & Gossett Hydronics, Morton Grove, Ill.
  Marlow, Midland Park, N.J.
  Stover, Freeport, Ill.
ITT Gilfillan Inc., Los Angeles, Calif.
ITT Industrial Laboratories Division, Fort Wayne, Ind.
ITT Industrial Products Division, San Fernando, Calif.
ITT Industries, Inc., New York, N.Y.
ITT Jabsco Inc., Costa Mesa, Calif.

278-719—67——59

ITT Mackay Marine (division), Clark, N.J.
ITT Microwave Inc., Mountainview, Calif.
ITT Mobile Telephone, Inc., Burbank, Calif.
ITT Semiconductors (division), West
Palm Beach, Fla. and Lawrence, Mass.
ITT Telecommunications (division),
New York, N.Y.; Corinth, Miss.;
Milan, Tenn.; Raleigh, N.C.
ITT Terryphone Corporation, Harrisburg, Pa.
ITT Wakefield Corporation, Detroit Mich.
ITT Wire and Cable Division, Pawtucket, R.I.
Royal, Pawtucket, R.I.
Surprenant, Clinton, Mass.
Jennings Radio Manufacturing
Corporation, San Jose, Calif.

Telephone Operations

PUERTO RICO

Puerto Rico Telephone Company,
San Juan

VIRGIN ISLANDS

Virgin Islands Telephone Corporation,
Charlotte Amalie

SOUTH AMERICA

Manufacturing—Sales—Service

ARGENTINA

Compañía Standard Electric Argentina,
S.A.I.C., Buenos Aires

BRAZIL

Standard Eléctrica, S.A., Rio de Janeiro
Electônica Industrial S.A., São Paulo

CHILE

Compañía Standard Electric, S.A.C.,
Santiago

COLOMBIA

ITT Standard Electric de Colombia,
S. A., Bogotá

ECUADOR

International Standard Electric of New York Limited (branch), Quito

EL SALVADOR

International Standard Electric of New York Limited (branch), San Salvador

VENEZUELA

Standard Telecommunications C. A., Caracas

Telephone Operations

BRAZIL

Companhia Telefônica Nacional, Curitiba

CHILE

Compañía de Teléfonos de Chile, Santiago

PERU

Compañía Peruana de Teléfonos Limitada, Lima

EUROPE, MIDDLE EAST, AFRICA

Manufacturing—Sales—Service

ALGERIA

Société Algérienne de Constructions Téléphoniques, Algiers

AUSTRIA

Standard Telephon und Telegraphen Aktiengesellschaft, Czeija, Nissl & Co., Vienna

BELGIUM

Bell Telephone Manufacturing Company, Antwerp

ITT Europe, Inc. (branch), Brussels

ITT Standard S. A. (branch), Brussels
(Offices in several countries)

DENMARK

Standard Electric Aktieselskab,
Copenhagen

FINLAND

Standard Electric Puhelinteollisuus Oy,
Helsinki

FRANCE

Cannon Electric France S.A.,
Toulouse and Paris

CFRO/SEDRE, Paris

Compagne Générale de Constructions
Téléphoniques, Paris
Les Téléimprimeurs, Paris

Compagnie Générale de Métrologie,
Annecy

International Standard Engineering Inc.
(branch), Paris

Laboratoire Central de Télécommunications, Paris

Le Matériel Technique Industriel, Paris

Le Matériel Téléphonique, Paris

Océanic-Radio, Paris and Chartres

Société des Produits Industriels ITT, Paris

Société Industrielle de Composants pour l'Electronique, Courbevoic

GERMANY

Deutsche ITT Industries G.m.b.H., Freiburg

Standard Elektrik Lorenz Aktiengesellschaft, Stuttgart
Graetz G.m.b.H., Stuttgart, and other subsidiaries

GREECE

ITT Hellas A. E., Athens

IRAN

Standard Electric Iran AG, Tehran

ITALY

Fabbrica Apparecchiature per Comunicazioni Elettriche, Standard S.p.A., Milan Società Impianti Elettrici Telefonici Telegrafici e Costruzioni Edili S.p.A., Florence

ITT Domel Italiana S.p.A., Milan

NETHERLANDS

Internationale Gas Apparaten N.V., Utrecht

Nederlandsche Standard Electric Maatschappij N.V., The Hague

NIGERIA

ITT Nigeria Limited, Lagos

NORWAY

Standard Telefon og Kabelfabrik A/S, Oslo

PORTUGAL

Standard Eléctrica, S. A. R. L., Lisbon

REPUBLIC OF SOUTH AFRICA

Standard Telephones and Cables (South Africa) (Proprietary) Limited, Boksburg East, Transvaal

RHODESIA

Supersonic Africa (Pty) Limited, Bulawayo

SPAIN

Compañía Internacional de Telecomunicación y Electrónica, S. A., Madrid

Compañía Radio Aérea Marítima Española, S.A., Madrid

Standard Eléctrica, S.A., Madrid

SWEDEN

ITT Norden AB, Solna

Standard Radio & Telefon AB, Barkarby

SWITZERLAND

Intel S. A., Basle ITT Standard S. A., Basle

Standard Téléphone et Radio S. A., Zurich Müeller-Barbieri AG, Wettswil Steiner S. A., Berne

TURKEY

Standard Dlektrik ve Telekomünikasyon Limited Sirketi, Ankara

UNITED KINGDOM

Cannon Electric (Great Britain) Ltd., Basingstoke

Creed and Company Limited, Brighton

ITT Industries Limited, London Maclaren Controls Limited, Glasgow, and other subsidiaries

Standard Telephones and Cables Limited, London
Standard Telecommunication Laboratories Limited, London, and other subsidiaries

ZAMBIA

Supersonic Radio Zambia Limited, Livingstone

FAR EAST AND PACIFIC

Manufacturing—Sales—Service

AUSTRALIA

Cannon Electric (Australia) Pty. Limited (50% interest), Melbourne

Standard Telephones and Cables Pty, Limited, Sydney
ITT Australia Pty. Limited, Brisbane and other cities

HONG KONG

ITT Far East and Pacific, Inc. (branch), Hong Kong

ITT Far East Ltd., Hong Kong

Transelectronics, Limited, Hong Kong

INDIA

ITT Far East and Pacific, Inc. (branch), New Delhi

JAPAN

ITT Far East and Pacific, Inc. (branch), Tokyo

NEW ZEALAND

Standard Telephones and Cables Pty. Limited (branch), Upper Hutt, Wellington

PHILIPPINES

Globe-Mackay Cable and Radio Corporation, Manila (Unit of ICO Group, below)

ITT Philippines, Incorporated, Makati, Rizal

INTERNATIONAL
COMMUNICATIONS OPERATIONS

American Cable & Radio Corporation, New York
- All America Cables and Radio, Inc.
- Commercial Cable Company, The

Globe-Mackay Cable and Radio Corporation
ITT All America Communications—Caribbean, Inc.
ITT Cable and Radio, Inc.—Puerto Rico
ITT Communications, Inc.—Virgin Islands
ITT World Communications Inc.
Press Wireless, Inc.
Companhia Rádio Internacional do Brasil, Rio de Janeiro
Compañia Internacional de Radio Boliviana, La Paz
Compañia Internacional de Radio, S.A., Buenos Aires
Compañia Internacional de Radio, S.A., Santiago
Cuban American Telephone and Telegraph Company (50% interest), Havana
Radio Corporation of Cuba, Havana

FINANCIAL AND OTHER SERVICES

Alexander Hamilton Life Insurance Company, Denver, Colo.
American Universal Life Insurance Company, St. Louis, Mo.
Hamilton Management Corporation, Denver, Colo.
ISE Finance Holdings S.A. Luxembourg
ITT Avis, Inc., Garden City, N.Y.
ITT Financial Services Inc., New York, N.Y.
- Great International Life Insurance Company (50% interest), Atlanta, Ga.
- International Telephone and Telegraph Credit Corporation, New York, N.Y.
- ITT Aetna Finance Company, St. Louis, Mo.
- Kellogg Credit Corporation, New York, N.Y.

INTERESTS (minority and other) AND ASSOCIATE LICENSEES

AUSTRALIA

Austral Standard Cables Pty. Limited, Melbourne

FRANCE

Lignes Télégraphiques et Téléphoniques, Paris

ITALY

Società Italiana Reti Telefoniche Interubane, Milan

JAPAN

Nippon Electric Company, Limited, Tokyo
Sumitomo Electric Industries, Limited, Osaka

SPAIN

Marconi Espanola, S.A., Madrid

THE WORLD OF ITT

North America:* 47,000 employees, 10,000,000 square feet.

Europe, Middle East, Africa: 135,000 employees, 23,300,000 square feet.

South America: 13,500 employees, 1,100,000 square feet.

Far East and Pacific: 3,500 employees, 800,000 square feet,

Totals: 199,000 employees, 35,200,000 square feet.

Sales representatives in most countries.

PART III

DISSENTING STATEMENT OF COMMISSIONER KENNETH A. COX

I dissent to the approval of the transfer-merger transaction here in question.

I concur substantially in the views of Commissioners Bartley and Johnson. I will have a statement at a later date setting forth my views at greater length.

[On February 1, 1967, in connection with the Commission's action granting leave to the Department of Justice to file an additional showing in this proceeding, Commissioner Cox issued a separate statement. In concluding that statement, he said: "In view of the further developments in this matter, I do not propose to issue the statement 'setting forth my views at greater length' which my dissenting statement attached to the Memorandum Opinion and Order of December 21, 1966, indicated I was planning to write. I do not think it would serve a useful purpose at this point, and I hope that there may be

*Includes Central America and Caribbean

no need further to expound the differences that separated us last December."]

Part IV

Dissenting Statement of Commissioner Nicholas Johnson

THE ITT–ABC MERGER CASE

["In the Matter of Applications by American Broadcasting Companies, Inc. For Assignment of Licenses of Stations. . . ."]

Docket No. 16828

December 21, 1966

(Revised)

Prefatory Note to Revised Edition

It is useful to provide a brief history of this case and explanation for the existence of a "revised opinion."

ITT and ABC filed their applications for approval of their merger on March 31, 1966. On July 20, 1966 the Commission requested information of the parties which was provided July 25, 1966. On August 18, 1966 the Commission ordered an "oral hearing" to be held September 19, 1966.

The hearing was held September 19 and 20, 1966. The Commission announced its decision and issued majority and three dissenting opinions on December 21, 1966. Thus, it is unrealistic to say the individual Commissioners had more than approximately 90 days within which to consider the full record. And that time was further limited by two additional significant exchanges: the request for additional information about foreign operations, and the investigation by the Assistant Attorney General (Antitrust), United States Department of Justice.

The three dissenting Commissioners requested information regarding ITT's foreign operations on November 2, 1966, which was filed November 17, 1966. Because the answers were not fully responsive Commissioner Cox and I (Commissioner Bartley being out of the city at the time) filed an additional request on November 23, 1966, which was answered December 8, 1966. Although the answers were somewhat evasive, as dis-

cussed in this opinion in Part I. A., infra, they were not skimpy. The replies totaled some 1,785 pages, and would have taken considerable time to thoroughly examine, evaluate, and follow up. Only thirteen days passed from the time the second reply was received until the Commission decision and opinions were first issued.

Even more serious were the implications of the information provided us by the Assistant Attorney General (Antitrust). This correspondence is in letters of Chairman Rosel H. Hyde of June 8, 1966, June 30, 1966, and October 25, 1966, and Assistant Attorney General (Antitrust) Donald F. Turner of June 21, 1966, July 27, 1966, November 3, 1966, and December 20, 1966. The antitrust implications of this case are discussed more fully in the opinion in Part II. B., *infra,* and the Hyde-Turner exchange of correspondence in Part I. A., *infra.* A factually detailed and analytical letter was received by the Commission from Mr. Turner on December 20, 1966. The Commission's receipt of this letter after close of business on Tuesday, December 20, 1966, and its resolution of this case the following day is mentioned in Part I. A., *infra.*

As I indicated in my dissenting statement of December 21, 1966, I was not only "simply stunned and bewildered" at the majority's willingness to issue its opinion that Wednesday afternoon, but was also thereby precluded from releasing anything other than a draft opinion not in final form. I indicated that "I will undoubtedly need to issue a subsequent revised version of my opinion as I had not originally intended to publish this draft in this form."

This opinion now represents the promised "revised version" of the December 21 draft. How has it been changed? The changes represent in largest measure merely the addition of documentary material in footnotes (with some minor additions to text) which I had gathered and intended to include in the next working draft of what was released as the December 21 dissenting opinion. Although I have not hesitated to correct those stylistic errors that have been detected, I have not modified the tone of the original opinion for two reasons. As written, the language portrays with greatest accuracy my feelings and reasoning at the time. It was relevant to the deci-

sion on that day, and I suspect it should be left to provide whatever relevance it may to those who reexamine this case years from now. Secondly, the original opinions of the majority and dissenting Commissioners were widely read and reported at the time. Changes now would be somewhat confusing to those comparing the two drafts. Accordingly, as much of the original language as possible has been retained, and as little as possible has been added to the text. Especially has the opinion not been modified to reflect the major events in the case which have occurred since December 21. Those have been, and will be, given appropriate treatment in the subsequent opinions of this Commission. In some instances footnote material is more current than December 21, 1966, but only when it is generally supporting and illustrative, timeless, and does not relate to the details of this case.

I. SUMMARY AND INTRODUCTION

My divergence from the path of the majority in this case is so fundamental that I feel compelled not only to offer a relatively substantial analysis of the merits, but to preface it with a few words of explanation and summary.

The majority opinion contains a thorough statement of the procedural detail of the case (such as when pleadings were filed and hearings held), and I will not repeat it. It is sufficient for my purposes to characterize generally the case before us.

The Communications Act of 1934 vests this Commission with responsibility for evaluating, among other things, all proposed transfers of title to licensed broadcast properties. No broadcasting station license can be transferred, assigned or disposed of without our permission. Our refusal prohibits the transfer. In passing upon applications for transfer the Act provides that we must consider whether "the public interest, convenience, and necessity will be served thereby."[1] Unless we can make such a finding the application for transfer must be denied.

[1] Section 310(b) of the Communications Act provides in full:

"No construction permit or station license, or any rights thereunder, shall be transferred, assigned, or disposed of in any manner, voluntarily or involuntarily, directly or indirectly, or by transfer of control of any corporation holding such permit or license, to any person except upon application to

The present case, characterized as a "merger" of International Telephone and Telegraph Corporation (ITT) with the American Broadcasting Companies, Inc. (ABC), comes before us because of the transfer provisions of the Act. Under the merger agreement ABC will transfer title of its seventeen radio and television stations to an ITT subsidiary. Ironically, the properties of greatest public significance, the ABC network and its affiliated stations, are not licensed property of ABC, and thus come within our jurisdiction only by virtue of their relation to the ABC-owned and licensed stations.[2] In order to

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the Commission and upon finding by the Commission that the public interest, convenience, and necessity will be served thereby. Any such application shall be disposed of as if the proposed transferee or assignee were making application under Section 308 of this title for the permit or license in question: but in acting thereon the Commission may not consider whether the public interest, convenience, and necessity might be served by the transfer, assignment, or disposal of the permit or license to a person other than the proposed transferee or assignee." 47 U.S.C. § 310(b) (1964).

[2] The majority has suggested, without deciding, that concern with the ownership of the ABC network is beyond the Commission's jurisdiction. There is a certain surface plausibility to this contention. The Commission licenses only stations. Title to one network (Mutual Broadcasting System radio network) has changed hands recently without the approval of the FCC. But examination of the Communications Act, its legislative history, and the long administrative practice under the Act, serve to dispel any doubts about the Commission's jurisdiction.

Although the scheme of the Communications Act places programming responsibility on the individual licensee, it was recognized very early that the actual programming increasingly would be done by networks. Thus, the Communications Act, 47 U.S.C. § 303(i) (1964), and the Radio Act before it, 44 Stat. 1164 (1927), gave the Commission "authority to make special regulations applicable to radio stations engaged in chain broadcasting."

These words can be read either narrowly or expansively, either to give the Commission limited power to control the technology of networking or to permit regulation of all network practices with an impact on station performance. The wording is an awkward tool for authorizing regulation of networks, because networks do not necessarily own stations and the section speaks of regulation of stations. But Senator Dill, one of the sponsors of the original Radio Act who was concerned about network control of stations, saw the chain broadcasting provision as a comprehensive response to the problem. 68 Cong. Rec. 2881 (1927). Recent Congresses have considered granting the Commission clearer power to regulate networks. But they have always recognized that many network policies can and should be regulated by couching the regulation in terms of allowable practices of stations. See *e.g.*, H.R. Rep. No. 281, 88th Cong., 1st Sess. 105–07 (1963).

Indeed the Commission has utilized just such a form to promulgate far-

"approve the merger," the Commission must find that the transfer of the seventeen ABC-owned stations to ITT will serve the "public interest, convenience, and necessity." [3]

reaching rules concerning network practices. See FCC, Report on Chain Broadcasting (1941). Network option time and affiliation practices have been regulated in this way. See 47 C.F.R. § 73.131–34 (1966). And, significantly in the present context, this vehicle was used to force RCA to divest itself of one of its two networks, thus giving birth to the present ABC network. As Section 73.137 of the Commission's rules now provide, "No license shall be issued to a standard broadcast station affiliated with a network organization which maintains more than one network. . . ." 47 C.F.R. § 73.137 (1966). See Radio Corp. of America, 10 F.C.C. 212 (1943), for the Commission's approval of the transfer. This provision is a clear precedent for Commission concern with the ownership of networks and for the use of its control of licenses to implement its concern.

These chain broadcasting rules were challenged in the Surpeme Court. In upholding the rules, the Court said, "True enough, the Act does not explicitly say that the Commission shall have the power to deal with network practices found inimical to the public interest. But Congress was acting in a field of regulation which was both new and dynamic. . . . [and] the Act gave the Commission not niggardly but expansive powers." National Broadcasting Co. v. United States, 319 U.S. 190, 218–19 (1943).

All relevant authorities give an expansive interpretation to the Commission's indirect authority to regulate network practices in the public interest. In no event can serious attention be given to the claim that Commission concern with network ownership cannot be given substantial weight in passing on the propriety of related transfers of station licenses. Even the parties conceded that the Commission could concern itself with the fact that a network was being transferred. ITT's counsel, while insisting that "as a legal matter you are considering only the licensees," concluded that "it would be terribly unrealistic if consideration was not given to the fact that this particular licensee is also a network." Record 401.

[3] Commission consideration of the merger has dealt primarily with the ABC network and its total corporate organization. Almost nothing has been said about the effects on the individual communities involved. New York, Chicago, Los Angeles, San Francisco and Detroit will each now have an AM-FM-Television complex owned by ITT. In Pittsburgh ITT will own an AM-FM station. The ownership of broadcasting properties in these largest markets is dominated by conglomerates. Of necessity our limited resources have focused on the national significance of network relationships, but surely the effects of this merger deserve as careful consideration in each of these cities—cities with combined 1960 census population of 32 million.

The Commission has also given quite inadequate attention to the application in this case of our proposed policy of restricting a single owner to three television stations in the top fifty markets. FCC 64-1171, 3 RR 2d 909 (1964). Pending final consideration of this proposed policy, the Commission has instituted an interim policy whereby transfers or acquisitions in violation of the proposed policy will require a full hearing to determine whether they are in the public interest, 5 RR 2d 271 (1965); 5 RR 2d 1609 (1965). The

A. The Majority's Procedural Approach Would Have Been Generally Questionable in Any Case, But Has Been Especially So in Light of the Significance of This Merger

It is deeply relevant to note at the outset that this particular transfer of broadcasting properties is the largest in history, and the largest this Commission is apt to encounter for some time to come. What is the Commission's role and responsibility in such a case? My disagreement with the majority over the answer to that question is far more fundamental than any differences with regard to the merits. For the majority's treatment of this case, in my judgment, makes a mockery of the public responsibility of a regulatory commission that is perhaps unparalleled in the history of American administrative process.

From the time the merger application was first filed, the outcome of this case has been a foregone conclusion. At one point no hearing at all was to be held.[4] Then, as a compromise to

Commission merely concludes that "the requirement for a hearing which was set forth in the statement of interim policy has been satisfied by the procedure herein." See majority opinion, *supra*. Needless to say, I feel the Commission's procedures are as deficient in satisfying the hearing requirement for our interim policy as they are in considering the transfer more generally. In fairness to the Commission, however, it should be noted that this is not the first instance in which it has shown utter disregard for its own interim policy. See WXHR-AM-FM-TV, Report No. 6193, FCC, Oct. 21, 1966 (dissenting opinion of Commissioner Johnson).

Furthermore it is a gross anomaly that the Commission devotes much more time to comparative consideration of applications for single stations than it has to this transfer of seventeen stations along with a network. For example, a currently pending hearing involving nine applicants for a television channel in Syracuse, New York, has been going on for over five years. Syracuse Television, Inc., FCC Dockets No. 14368–446. Of course, the standards of comparative hearings are not applicable in transfer cases. If there is any justification for the Commission's thorough investigation of such matters, however, the underlying rationale would seem at least relevant in choosing procedures for evaluating a case of the magnitude of that now before us. See, *e.g.*, Policy Statement on Comparative Broadcast Hearings, 5 RR 2d 1901 (1965).

[4] On July 20, 1966, the Commission sent letters to both Mr. Geneen and Mr. Goldenson, requesting additional information on the uses which ABC would make of ITT funds and on the relationship between the ABC and ITT Boards of Directors after the merger. No hearing was mentioned at all in those letters. This was before I was participating in the Commission's business, but Commissioners Bartley and Cox dissented to the sending of the letters and insisted on the need for a hearing. Report No. 6084, FCC, July 21, 1966.

Commissioner Bartley's insistence on "a full evidentiary hearing," the Commission proposed an unprecedented, bobtailed "oral" hearing.[5] It was anticipated the Commission would merely meet informally *en banc* with the principals of ABC and ITT and hear their side of the case. Only the questioning of the three dissenting Commissioners extended the case to a scant two days. The questioning of three of the four Commissioners in the majority occupied scarcely eleven full pages in the 607-page record.[6] The fourth Commissioner's questioning was directed principally toward discrediting an FCC staff member, and assisting ITT counsel's effort to demonstrate the absence of any possible antitrust implications of the merger.[7]

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[5] American Broadcasting Cos., 4 FCC 2d 709 (1966). In his dissent Commissioner Bartley said, "The order and notice of oral hearing is, in my opinion, inadequate and ineffective, since it will elicit opinion rather than evidence tested in the crucible of a formal hearing where the applicant must meet the burden of proof on specified issues, which is necessary to a resolution of the serious social, economic, commercial concentration, and other public interest questions here obtaining." 4 FCC 2d at 711–12.

[6] See Record 126–28, 204–06, 211–15, 217, 258–59, 294, 496, 577, 597–98, 600, 603–04.

[7] Typical of the remarks directed toward the staff member are:

"My point is that it seems to me that this is meaningless rhetoric unless it is tied down to some specific concepts, what the antitrust lawyers call relevant market but the statutes call a line of commerce, and the economists have other names. But simply to talk about concentration in a broad airy sense as something that kind of exists in the super ambient atmosphere is meaningless. . . .

* * *

Couldn't we stick to one point? I am trying to find out what you mean. I am not trying to decide the case. You were talking about the concentration of control of mass media, is that correct? . . .

* * *

Do you have anything in mind when you are talking about concentration of control, in the economy at large? Is this just something that is a vague fear, that has been generated in the viscera of some of those who have discussed it on the staff, or does this refer to any facts that you have ascertained from any identifiable source that you can mention to us?

* * *

. . . Are you familiar, or is anybody to your knowledge, that has had anything to do with formulating this issue for us, the issue of concentration of control, familiar with any of the literature on the subject?"

Record 186–87, 188, 190, 192. And see generally Record 182–201.

Virtually the entire dissertation of ITT's antitrust lawyer, on the other hand, was presented by affirmative responses to leading questions by the

The most notable peculiarity of the "oral hearing" was the total absence of any party whatsoever representing the public. There were no intervenors.[8] (Indeed the absence of intervenors is sometimes read by the Commission as evidence that the public interest coincides with the economic interest of the applicant. Needless to say, I do not abide such logic.)[9] More shocking, participation by FCC staff was barely evident. One

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same Commissioner which often ended with "is that right," "is that correct," and "don't they." For example,

"Hasn't the Court consistently said that such relative figures are *de minimus* and are not to be given consideration in merger cases? . . . Now, is there any case or any antitrust case that has been heard or to your knowledge has been reported or instituted that has alleged that such a [conglomerate] relationship is improper, illegal or contrary to general public policy? . . . In other words, an order prohibiting this merger on the grounds that have been suggested in some of the discussion would go beyond any reported case, any legal principle, or any principle argued or contended for by any writer of standing in this field. Is that correct?"

Record 445, 446–47, 448. And see generally Record 432–48.

[8] Hubbard Broadcasting, Inc. did file a petition to deny the transfer of one of the seventeen station licenses. Hubbard is the licensee of KOB which operates in Albuquerque, New Mexico on the same frequency as does WABC in New York. KOB has challenged WABC's right to renewal of its license in this latest chapter of a twenty-year dispute over the proper use of that frequency. WABC's application for renewal, which KOB challenges, was filed in 1959. The license term, it might be noted, is for three years, and thus would only have run to 1962. The dispatch with which this merger has been handled is in marked contrast to the repeated delays to which KOB has been subjected. The Hubbard petition, however, raises none of the broader questions with which I am principally concerned.

[9] Neither, of course, do the courts. The Supreme Court has said, "The Communications Act is not designed primarily as a new code for the adjustment of conflicting private rights through adjudication. Rather it expresses a desire on the part of Congress to maintain, through appropriate administrative control, a grip on the dynamic aspects of radio transmission." FCC v. Pottsville Broadcasting Co., 309 U.S. 134, 138 (1940). In a recent case involving the Federal Power Commission, another administrative body charged with being representative of the public interest, it was held that, "The Commission has an affirmative duty to inquire into and consider all relevant facts." Scenic Hudson Preservation Conference v. FPC, 354 F. 2d 608, 620 (2d Cir. 1965), *cert. denied*, 384 U.S. 941 (1966). The Court quoted with approval the words of dissenting Commissioner Ross: "A regulatory Commission can insure continuing confidence in its decisions only when it has used its staff and its own expertise in manner not possible for the uninformed and poorly financed public." *Ibid.* See Michigan Consol. Gas Co. v. FPC, 283 F. 2d 204 (D.C. Cir. 1960), *cert. denied*, 364 U.S. 913 (1960); Isbrandtsen Co. v. United States, 96 F. Supp. 883 (S.D.N.Y. 1951); *aff'd*

employee of the Broadcast Bureau presented a very brief recitation of some issues that should be of relevance to the Commission.[10] Most had already been noted by Commissioner Bartley in his dissent to the "oral hearing" procedure.[11] There was no cross-examination by the staff of a single spokesman for the applicants. There were no witnesses whatsoever presented by the staff. The applicants came with able lawyers, economists, businessmen and distinguished citizens.[12] The Commission had none.

To say that the individual Commissioners attended the hearing to represent the public is to totally miscomprehend the administrative process at this Commission. A Commissioner has

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by an equally divided court, 342 U.S. 950 (1952); Reich, *Law of the Planned Society*, 75 Yale L.J. 1227 (1966).

As the experienced and reflective former Securities and Exchange Commission Chairman William L. Cary has noted:

"Occasionally an agency such as the Federal Power Commission in a proceeding involving gas rates has the views of a consumer lobby, such as the state or city government of the area where the gas will be sold. But in other instances, such as the grant of television licenses, there is really no well-defined spokesman for the public except the agency itself."

Cary, Politics and the Regulatory Agencies 4 (1967).

[10] Record 9–19. A representative of the Common Carrier Bureau was also present and responded briefly to questions of Commissioners. Record 182–84. And see note 7, *supra*. In addition the staff had earlier prepared a 24 page memorandum analyzing the pleadings in the case and the issues presented.

[11] American Broadcasting Cos., 4 FCC 2d 709, 712–13 (1966).

[12] Testifying for the merging companies were James A. McKenna, Jr., broadcasting counsel for ABC, Paul E. Sonkin, ABC-TV network director of research, Leonard H. Goldenson, President of ABC, Marcus Cohn, broadcasting counsel for ITT, John A. McCone, former Director of the Central Intelligence Agency and a member of the Board of Directors of ITT, Taggart Whipple, antitrust counsel for ITT, Harold S. Geneen, President and Chairman of the Board of ITT, and Dr. Raymond Saulnier, former Chairman of the President's Council of Economic Advisers. In addition, the following were listed as appearing for ITT: Raymond L. Brittenham, Sr., Senior Vice President, Howard J. Aibel, Vice President, Hart Perry, Executive Vice President, Ted Westfall, Executive Vice President and Director, and Herbert C. Knortz, Senior Vice President. For ABC there were appearances by Simon B. Siegel, Executive Vice President and Director, Thomas W. Moore, Vice President, Director and President of the TV network, Everett H. Erlick, Vice President, General Counsel and Director, Vernon L. Wilkinson, attorney, Herbert A. Bergson, attorney, Ted Shaker, Vice President, and John A. Macon, Director. Among the other people in the room representing ABC was James C. Hagerty, former press secretary to President Eisenhower and currently Vice President of ABC.

but one legal and one engineering assistant. Between them they must pass upon a caseload that last year produced 3,030 pages of printed opinions, attend numerous meetings and hearings, and otherwise attend to the awesome business of government involvement in this nation's communications system—a system which includes, in addition to the American broadcasting industry, such matters as telephones, satellites, microwave and mobile radio.[13] ITT and ABC combine financial resources represented by total revenues well in excess of $2 *billion* annually.[14] It is questionable whether the entire staff of the FCC (with annual budget of $17 million)[15] would be adequate to deal with such corporations, even if engaged in nothing else. Clearly a single Commissioner's office is not. For that reason I make no representation that this opinion, and my own role in the hearing, are in any way adequate to serve the substantial public interest involved in this case.[16]

After the hearing things only got worse. I disclose no confidences when I say there has been considerable urgency within the Commission associated with the disposition of this case. There have been numerous references in the trade press to the fact that a substantial minority of this Commission has been fully prepared to decide the case without even waiting to hear from the Assistant Attorney General (Antitrust).[17]

Assistant Attorney General Donald F. Turner wrote FCC Chairman Rosel H. Hyde on November 3, 1966 that:

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[13] For a discussion of the similar workload problems of a comparable regulatory agency, see Aitchison, *The Rules and Practices and Work of the Interstate Commerce Commission*, 9 I.C.C. Pract. J. 28 (1941).

[14] See 1965 ITT Ann. Rep. 23; 1965 ABC Ann. Rep. 1.

[15] 1967 Budget of the United States Government 333.

[16] To put the burden on individual Commissioners of cross-examining witnesses assures not only that the job will be done less thoroughly than if the professional staff were to give the task full-time attention. It also subverts the Commissioner's traditional role of adjudicator. It requires him to perform as client and lawyer during the hearing, and as judge thereafter. After the experience of this case it is my view that although the conflict need not disqualify a Commissioner from participating in the subsequent decision, it is a clearly undesirable practice.

[17] See, *e.g.*, Television Digest, Nov. 7, 1966: "Preponderant view at FCC—though not unanimous—is that it would be plain dumb to go ahead and approve merger before seeing Justice's comments."

> "our analysis to date now indicates a sufficient possibility of significant anticompetitive effects to indicate that substantial antitrust questions are present." [18]

Only last evening (December 20, 1966) he advised us once again by letter that,

> "we believe the possibilities of adverse effects are significant enough that we should call them to your attention, and that they deserve full and serious consideration by the Commission in making its determination whether, in light of these and other pertinent factors, the acquisition of ABC by ITT would serve 'the public interest, convenience and necessity.'" [19]

Mr. Turner's five-page single-spaced letter thoughtfully presents facts and analyses substantially at variance with the evidence presented to the Commission and, if true, leaves the majority's opinion in shreds.[20] I am simply stunned and be-

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[18] Letter from Donald F. Turner to Rosel H. Hyde, Nov. 3, 1966.

[19] Letter from Donald F. Turner to Rosel H. Hyde, Dec. 20, 1966.

The opinion of the Antitrust Division is usually sought by the FCC in cases which might affect the competitive nature of broadcasting. This liaison is natural enough, because, as the majority's opinion implicitly recognizes, the competitive structure of the broadcasting industry is of vital concern to both the Commission and the Division.

The majority's precipitate action is incomprehensible in light of our past experience at coordination with the Antitrust Division. The House Judiciary Committee commented in 1957:

"The Committee's study of the ABC-Paramount merger case of 1951–53 and the NBC-Westinghouse exchange case of 1955, reveal instances of wholly inadequate liaison between these two Federal agencies. . . . For after the Commission had approved the [NBC] exchange, the Division [Antitrust] commendably continued its investigations, instituted grand jury proceedings, and filed an antitrust suit against the participants."

Antitrust Subcommittee of the House Committee on the Judiciary, Report pursuant to H. Res. 107 on the Television Broadcasting Industry 144 (1957).

Mr. Turner's letter of December 20 is provided as an appendix to this opinion. While not at present prepared to bring suit, he warns the Commission of facts bearing on the effect this merger will have on competition in broadcasting. Even if Mr. Turner's present reluctance to bring suit reflects a conclusion that the merger does not violate the antitrust laws, the competitive dangers of which he warns would still be relevant to this Commission in its more generalized weighing of the advantages and disadvantages of the merger.

[20] For example, the majority's major argument in favor of this merger is that the financial resources of ITT will be available to help make ABC a stronger network. As I demonstrate in Part IV, *infra*, ABC's need for funds

wildered that the majority of this Commission could receive such a letter after 6:00 p.m. one evening and resolve a case of this magnitude before 10:00 a. m. the next morning.

I would think it appropriate to at least read Mr. Turner's letter slowly. Having done so, it seems to me essential that this Commission consider the information the Department of Justice apparently has available to it. Obviously, the majority has prevented that possibility. Accordingly, I simply set forth the Assistant Attorney General's letter in full as an Appendix to my opinion.[21] Matters raised by the Justice Department were not the only areas where information was clearly lacking. After cursory investigation it became obvious that the record was woefully inadequate with regard to ITT's foreign operations.[22] When it was suggested that the Commission might write the applicants for additional information, the present majority actually refused to sign the letter which was sent.[23]

Substantial quantities of information were filed in response (although partly evasive of the questions asked).[24] Again ques-

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has not been demonstrated in the Record of this case. But even if my analysis could somehow be found wanting, the Assistant Attorney General now suggests that (1) not only does ABC have no need for funds, but that (2) ITT "anticipated that after capital expenditures and debt repayment, and assuming ABC continues in third place, it would yield a cash flow approaching $100 million between 1966 and 1970, almost all of which was thought by ITT to be available for reinvestment *outside* the television business." Letter from Donald F. Turner to Rosel H. Hyde, Dec. 20, 1966. Without regard to the possible merit of the majority's decision, one would think such substantial rebuttal of its premises would be cause for some reflection and revision of its language, if not the outcome. The majority might have at least asked to see, and critically reviewed, whatever evidence Mr. Turner was relying upon for this startling assertion.

[21] See Appendix A, *infra*.

[22] See, Record 146–48, 465–68, 482–500, 592–94, 600. In contrast, the Senate Hearings on the entire 1934 Communications Act devoted thirty single-spaced printed pages out of a total of 218 to testimony concerning the foreign operations of this very company, International Telephone and Telegraph. *Hearings on S. 2910 Before the Senate Committee on Interstate Commerce*, 73d Cong., 2d Sess. 118–35, 160–73 (1934).

[23] Letter from Commissioners Robert T. Bartley, Kenneth A. Cox, and Nicholas Johnson to Mr. Harold S. Geneen, Nov. 2, 1966.

[24] See Letter from Harold S. Geneen to Commissioners Robert T. Bartley, Kenneth A. Cox, and Nicholas Johnson, Nov. 17, 1966 and accompanying materials.

One example of the evasiveness was the response to the second request contained in the Commissioners' letter: "A list of any joint ventures, and

tions were posed (again over the majority's abstention),[25] and again quantities of information were supplied.[26] None of us has had adequate opportunity to consider this bulky material—most recently received on December 8, 1966—any more thoroughly than the issues underlying last evening's letter from the Assistant Attorney General.

Why this rush? Surely it is praiseworthy for an agency to attempt to dispose of its workload expeditiously, especially an agency that is repeatedly cited as an example of delay and indecision.[27] No one would defend processing cases for five and

significant agreements (including licensing) between ITT or its affiliates and any foreign company, foreign government or other public body." In partial response, Mr. Geneen's letter said, "The ITT System manufacturing companies have entered into various patent and technical information licensing and cross-licensing agreements with foreign corporations in the ordinary course of business. Many of these agreements are royalty-free, or provide for royalties of relatively nominal amounts. None of these licensing agreements is considered to involve royalty payments of more than $1 million per year, and consequently they are not regarded as financially significant agreements in relation to ITT's total income." This was the only information with regard to licensing agreements which was filed.

[25] See Letter from Commissioners Kenneth A. Cox and Nicholas Johnson to Mr. Harold S. Geneen, Nov. 23, 1966. (Commissioner Bartley was out of the city on official business, and accordingly was not present to participate in the issuance of the letter.)

[26] See Letter from Mr. Harold S. Geneen to Commissioners Kenneth A. Cox and Nicholas Johnson, Dec. 8, 1966, and accompanying materials. Several of the answers accompanying this second letter veritably cry out for cross-examination. For instance, in response to a request for information about the governmental liaison carried on by ITT in foreign countries, it was reported that, "No amounts have been budgeted or expended by ITT or its subsidiaries for 'governmental liaison' or 'entertainment of governmental officials' other than the travel expenses, ordinary expenses of business, meals, and similar minor miscellaneous expenses of the ITT's sales and administrative personnel. . . ." See Reply No. 5, *id.*

[27] See, *e.g.*, Landis, Report on Regulatory Agencies to the President-Elect 5–9, 53–54 (1960); William K. Jones, Licensing of Major Broadcast Facilities by the Federal Communications Commission 180–86 (Administrative Conference of the United States, Committee on Licenses and Authorizations 1962); 2 Booz-Allen & Hamilton, Organization and Management Survey of the FCC 428–29 (1962); Minow, Equal Time 290 (ch. 17, "Problem: The Bureaucracy") (Laurent, ed., 1964); Letter from FCC Chairman Newton N. Minow to President John F. Kennedy, May 31, 1963, reprinted in *id.*, 279; see also Hector, *Problems of the CAB and the Independent Regulatory Commissions*, 69 Yale L. J. 931 (1960).

ten years, though examples of such abound at the FCC.[28] But on what grounds can one charge "delay" by such an agency for taking more than ninety days to dispose of the largest case in its history?

And now the majority's opinion is bathed in public light. Reading it one is prompted to ask if those four Commissioners even believe the merits relevant to their decision. I make no brief for the analysis I have attempted to provide in this dissenting opinion. But at least I have attempted to identify issues and bring some rational analysis to bear. The Commission's opinion seems to me to have forsaken any such attempt.

The majority appears to be saying that a merger serves the public interest unless individual Commissioners are willing and able to bear the burden of coming forward with evidence, and proof, that it does not. (Indeed, on occasion during the hearing, the applicants were almost hostile in their suggestion that Commissioners were acting with impropriety in even questioning the public benefits from the merger unless armed with proof that potential evil would become reality.)[29] The majority appears to believe that some disservice to the public interest can be tolerated if it is not too severe.

Let me simply note briefly my disagreement with such propositions, for within these differences may lie some basis for logical understanding of the very wide variance between my approach and that of the majority.

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[28] A particularly ironic example is involved in this very case. Hubbard Broadcasting has been seeking clarification of the rights of its Albuquerque station, KOB, with regard to 770 kilocycles, the frequency on which WABC in New York operates. For 20 years it has persisted. It still does not receive satisfaction in the majority's opinion. See Record 19–23, the majority's discussion of the problem, and see note 8, *supra*.

[29] Here, for example, is one statement of ITT counsel Cohn:

"I don't think it is fair for the Commission to put the proof of the negative on ITT. It is difficult, if not impossible, to prove the negative. The simple fact remains that there is no evidence in this record, outside of what you describe as your suspicions, and you used the word 'suspicion,' that a public harm may arise because of these potential detriments to which you allude.

"The record requires something other than mere suspicion that these things could happen in the future. . . . [I]t is incumbent on someone to come through with positive evidence that those results could, in fact, and would, in fact, arise."

Record 380–81.

Congress has provided that, "No . . . station license . . . shall be transferred . . . except . . . upon finding by the Commission that the public interest, convenience, and necessity will be served thereby." [30] I believe such language contemplates that some transfers would *not* serve the public interest. I believe such language presumes that this Commission must seek and examine evidence that the public interest *will* be served by a given transfer. I believe the burden of coming forward with such evidence is on the applicants. I believe the burden of proof is on the applicants. I believe that without such evidence a proposed merger must be disapproved. I believe credible evidence of probability that the public interest will be disserved by a merger precludes our finding that it serves the public interest.

If these assumptions be accepted, then the dissent which follows flows logically. If they be rejected, much of my opinion falls. In it the following arguments, here summarized, are expounded and documented at greater length.

B. The Majority's Substantive Analysis Fails to Take Account of the Absence of Evidence to Support the Applicants' Case, and the Substantial Evidence of Probable Harm to the Public Interest

The merger was conceived in pursuit of personal and corporate interests wholly unrelated to the public interest.[31] ABC President Goldenson wished to retain control of a corporation threatened by a dissident minority. The value of his personal stockholdings has increased by about $3 million since the merger was announced.[32] ITT President Geneen sought to promote further growth through acquisition, and favored American corporations over foreign because of the present foreign-American balance in ITT's holdings. Prior to its merger with ABC 60 percent of ITT's income was from foreign sources.[33] ABC

[30] See note 1, *supra*.

[31] The personal and corporate interests served by the merger are discussed generally in Part II, *infra*.

[32] Mr. Goldenson holds 97,061 shares of ABC stock. Before the ABC–ITT talks came to public attention ABC stock was selling at 54 (December 1, 1965). The day after this Commission's approval on Dec. 21, 1966, the same stock was selling for 86⅜. The paper gain to Mr. Goldenson was $3,142,835. Broadcasting, Dec. 26, 1966.

[33] Record 147.

will be one of ITT's largest subsidiaries.[34] Such motivations are, of course, not necessarily inconsistent with serving the public interest in American broadcasting. But this explanation certainly puts the case for "the public interest" in unique perspective. And presumably no one would contend that these reasons, taken alone, are adequate to sustain the majority's approval of the merger.

The public interest in broadcasting will be significantly harmed by the merger. It will place one of the largest purveyors of news and opinion in America under the control of one of the largest conglomerate corporations in the world, a company that derives 60 percent of its earnings from foreign sources and 40 percent of its domestic income from defense and space contracts.[35] The possibility that the integrity of the news judgment of ABC would be affected by the economic interests of ITT is a real threat, without regard to the character of the present management of ITT and ABC and their protestations that no possibility of harm exists. ITT's economic interests are daily affected by what American citizens know and think about what is going on in their country and the world. Moreover, to permit ITT to take over ABC tends to inhibit competitive forces in the broadcasting business.[36] It permits self-serving understandings between ITT's subsidiaries and ABC's advertisers.[37] It removes ITT as a potential owner of a new network, or broadcast properties not associated with a network. It makes it more difficult for a fourth network to come into existence. It tends to remove ABC as a party of protest to the international communication common carrier rates charged by ITT.

These reasons, standing alone, should leave little doubt in anyone's mind that the merger should not receive a blithe imprimatur from this Commission.

[34] Record 176, 544.

[35] Record 147–148. At one point, however, it was indicated that about 55% of ITT's domestic income derives from defense and space contracts. Record 123.

[36] The impact of the merger on competition is discussed generally in Part III, B. 3., *infra*.

[37] This is the danger familiar in antitrust law, of reciprocal dealings. See Part III, B. 3., *infra*. For instance, a major tire company might agree, formally or informally, to purchase advertising from ABC in return for tire purchases by Avis Rent-a-Car, an ITT subsidiary.

But there is another side to this case. The parties' side. What have ITT and ABC argued in support of the "public interest" served by the merger? Does it make sense?

The principal argument of the applicants, and the majority, is that the merger will permit ABC to become a stronger, more competitive network.[38] Each proposition advanced in support of this argument, however, simply fails to withstand analysis. ABC is substantially competitive with the other two major networks today. To the extent it is not, the evidence supports the view that the public is benefited by ABC's more innovative programming, not harmed. Certainly no one offered any evidence that ABC's programming is inferior to that of CBS and NBC—quite the contrary. The company is in good shape financially. Its earnings continue to increase. It has plans for expansion—made before proposal of the merger, and perfectly capable of execution without assistance from ITT. Moreover, ITT has made no specific commitment of funds to ABC. Indeed, Mr. Turner has advised the Commission that,

> "ITT's estimates indicate that ABC's earnings growth rate over the next five years would be 16%. More importantly, it was anticipated that after capital expenditures and debt repayment, and assuming ABC continues in third place, it would yield a cash flow approaching $100 million between 1966 and 1970, almost all of which was thought by ITT to be avaliable for reinvestment *outside* the television business." [39]

But most fundamental is that, to the extent ABC is not fully competitive, the reasons lie wholly in the number and competitive position of its affiliated stations. The merger can in no way affect that fact. The growth of UHF television can—and will.

Thus, even ignoring the substantial public detriment that will be caused by this merger, the Commission is not warranted in approving it in my judgment. The applicants have simply failed in sustaining their burden of proving that at least some public benefit will be derived from their merger.

[38] The matter of ABC's present competitiveness and alleged "need" for outside financial support is discussed in Part IV, *infra*.

[39] Letter from Donald F. Turner to Chairman Rosel H. Hyde, Dec. 20, 1966.

And so I am brought to the substance of my dissent. But before I begin my analysis of the merits I wish to add one final word. That feelings about this case run high is obvious—and irrelevant to my evaluation of the issues. I think highly of both Mr. Geneen and Mr. Goldenson, the Presidents of ITT and ABC. Each has rightfully made a reputation for himself as one of the ablest men in American business today. We are fortunate to have them. I think it probable America would be more benefited from their continued individual, than from their new-found collective talents. We shall see.

II. THE PARTIES SEEK TO MERGE FOR SELF-SERVING ECONOMIC AND PERSONAL REASONS UNRELATED TO SERVING THE PUBLIC INTEREST IN BROADCASTING

International Telephone and Telegraph Corporation is a sprawling international conglomerate of 433 separate boards of directors.[40] Its 1965 revenues of $1,782,939,000 make it 30th of the industrial corporations of the United States. Its net income that year was $76,110,000.[41] Its 200,000 employees—over 130 times the size of the entire Federal Communications Commission Washington and field staff—make it fifth among United States industrial corporations and ninth in the world in size of work force.[42] ITT has significant holdings in at least forty countries [43] and derives approximately sixty percent of its revenues from foreign sources.[44] It owns and operates the telephone companies in all of Chile, Puerto Rico and the Virgin Islands, and in Lima, Peru, and the State of Parana, Brazil.[45] A great part of its foreign income comes from the sale of electronic and telecommunication equipment to foreign governments.[46]

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[40] 1965 Ann. Meeting of Stockholders 13. *But see* Record 500 where the figure 380 was cited.

[41] Fortune, July 15, 1966, p. 232.

[42] 1965 ITT Ann. Rep. 3.

[43] Id. at 34–35.

[44] Record 123.

[45] 1965 ITT Ann. Rep. 34–35.

[46] See Reply No. 3 accompanying Letter from Mr. Harold S. Geneen to Commissioners Kenneth A. Cox and Nicholas Johnson, Dec. 8, 1966.

Forty percent of ITT's U.S. revenues derives from federal government defense and space contracts.[47] But ITT also owns several consumer finance companies, life insurance companies, an investment fund, a small loan company, and numerous electronics research and manufacturing subsidiaries.[48] As a leading international common carrier, the company owns 10.5 percent of the shares of the Communications Satellite Corporation[49] (making it the second largest shareholder after the American Telephone and Telegraph Company), and it elects two of the Comsat directors. ITT owns ITT Avis, Inc. (a car rental company),[50] and has acquired a sizable book publisher.[51]

The American Broadcasting Company, Inc., was literally born of this Commission's concern for "the fuller use of the radio as a mechanism of free speech."[52] The Radio Corporation of America (RCA) had owned two networks, the Red and the Blue. As a result of the FCC's chain broadcasting rules of 1941, the Blue Network Company, created by the National Broadcasting Company (NBC) in 1927, was offered for sale.[53] It was purchased by Edward J. Noble in 1943 for $8,000,000, and Noble's "American Broadcasting Company" began.[54]

The ABC network was immediately confronted with competition from the Columbia Broadcasting System (CBS) and NBC—its rivals still. It began with but two stations and partial

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[47] Record 148. *But see* note 35, *supra*.

[48] 1965 ITT Ann. Rep. 34–35.

[49] ITT Proxy Statement 23 (1966).

[50] 1965 ITT Ann. Rep. 35.

[51] N.Y. Times, Nov. 1, 1966, p. 57, col. 3. The publisher, Howard W. Sams Co., Inc. owns the Bobbs Merrill Co., Inc., Theodore Audel & Co., Editors and Engineers, Ltd., and Review and Research Service of America. Sams and its subsidiaries published 183 titles in 1965, mainly in the fields of history, law, science, and electronics. 1966–67 Literary Market Place 89–90.

[52] Radio Corp. of America, 10 FCC 212, 213 (1943). The Commission continued, "The mechanism of free speech can operate freely only when the controls of public access to the means for the dissemination of news and issues are in as many responsible ownerships as possible and each exercises its own independent judgment." *Ibid.*

[53] *Id.* at 212. See FCC, Report on Chain Broadcasting (1941).

[54] See ABC—Past, Present and Proposed at 2, filed by the parties on March 31, 1966 as Exhibit No. 1–3, Attachment H.

ownership of a third.[55] Here is how ABC has summarized its first eight years (1943–51):

"In short, in its first eight years as an independent network, ABC increased its owned and operated facilities from 2½ AM stations in three cities to 4½ AM stations in five 'key' cities, having in the meantime improved its AM facilities in New York (by a change of transmitter site) and in San Francisco (by a seven-fold increase in power). It had become the licensee of FM and TV stations in those five same markets. It had increased the number of its AM affiliates from 168 to 298, the number of FM affiliates from 0 to 59. During this same period the company made capital outlays totaling $17,500,000. The number of employees had almost quadrupled—increasing from 715 to 2531.

"From a total of $18,819,988 in 1943, the net sales of the company increased to $53,347,501 for the first 11 months of 1951." [56]

Despite this creditable rate of growth, ABC proposed to merge with United Paramount Threatres in 1951, and finally effected the merger in 1953 with the Commission's approval.[57]

American Broadcasting Companies, Inc. (ABC) is the result of this 1953 merger between Paramount and the American Broadcasting Company. ABC now owns 399 theaters in 34 states, five television stations, six AM and six FM stations (all in the top ten broadcasting markets) and, of course, one of the three major television networks and one of the four major radio networks in the country.[58]

Today with its domestic television network facilities and its 137 primary television affiliates, ABC is capable of beaming an aural and visual message to 93 percent of the 50,000,000 television homes in this country. Its radio network can reach 97 percent of the 55,000,000 homes in the United States with radio receivers.[59]

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[55] *Id.* at 3. The stations were WJZ in New York (now WABC), KGO in San Francisco, and WENR in Chicago (now WLS).

[56] *Id.* at 7.

[57] Paramount Television Prods., Inc. 17 FCC 264 (1953).

[58] ITT Proxy Statement 24–27 (1966). See also, ABC 1965 Ann. Rep.

[59] Record 70, 71, 73, 92.

ABC's broadcasting and programming interests are not limited to this country. It has a wholly-owned subsidiary which acts as program purchasing and sales representative for foreign stations. ABC has interests and associations with stations in 25 nations, known as the "Worldvision Group," including eleven Latin American countries, Australia, Canada, Japan, Lebanon, The Netherlands, Okinawa and the Philippines.[60] A wholly-owned subsidiary of ABC, ABC Films, distributes filmed television programs to stations, networks, and advertisers on a local, regional or national basis, and abroad.[61]

ABC is in the record business, in the United States and abroad, through its wholly-owned subsidiary ABC-Paramount Records. After all the subsidiaries are accounted for there are six labels (Command, Grand Award, Impulsel, Music Guild, Westminster, and Whitehall), a record distributor, a recording studio, a record pressing plant, and music publishers.[62]

Subsidiaries of ABC publish three farm papers, each over 100 years old, with combined circulation of 800,000: Prairie Farmer (Chicago), Wallaces Farmer (Des Moines), and Wisconsin Agriculturist (Racine).[63]

In 1965 ABC had total revenue of $476,500,000, of which $361,600,000 came from broadcasting. Its total before-tax net income for 1965 was $28,900,000, up from $22,200,000 in 1964.[64]

These are capsule descriptions of the breadth of interests encompassed in the two parent companies which come before this Commission seeking approval for their merger.[65]

It should not be surprising that the parties reached a decision to merge based on their own private interests. Serving their own interests is by no means inconsistent with their also

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[60] ITT Proxy Statement 25 (1966); Tyler, *Television Around the World*, in Television, Oct. 1966, p. 32.

[61] ITT Proxy Statement 27 (1966).

[62] *Ibid.*

[63] *Ibid.*

[64] 1965 ABC Ann. Rep. 1; Record 96.

[65] The Commission must pass on the merger because it involves the transfer of seventeen radio and television broadcasting licenses. Under the Communications Act of 1934, the Commission is to approve transfers only if it determines that "the public interest, convenience, and necessity will be served thereby." 47 U.S.C. 310(b) (1964). See notes 1 and 3, *supra*.

serving the public interest. But the burden of establishing that what serves their own interest will also serve the public interest is obviously placed on the parties by the Communication's Act.[66]

There is a history to the merger proposal which goes a long way toward explaining the private interests which the parties are attempting to serve. It provides a valuable perspective with which to view both the proposed merger and the claims made to the Commission by the parties.[67]

Since its inception about forty-five years ago ITT has been largely a holding company for foreign telephone equipment and operating companies.[68] In 1959 Harold Geneen was selected as President by the ITT Board. Geneen immediately launched the company on a policy of growth, principally through acquisition, with the stated goal of doubling sales and earnings within five years. That goal was reached, and the policy of growth through acquisition has continued unabated. There can be little doubt that the success of the policy has been due largely to the personal qualities of Geneen. He "eliminated much of the autonomy of ITT's operating managers, and replaced it with a control system tautly run from New York headquarters." [69]

One of the aims of ITT's acquisition policy has been to redress the imbalance in its income from foreign and domestic

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[66] *Ibid.*

[67] Corporate power, John Kenneth Galbraith has observed,

"[H]as passed from the owners of the corporation to the managers, and to the scientists and technicians. They now exercise full and autonomous power and, not surprisingly, they exercise it in their own interest. And this interest differs from that of the owners. For the managers and technicians security of return is more important than the level of total earnings. This is because those in charge do not get the profits—or anyhow not much of the profits. But they—the scientists and technicians—do get the promotions, enlarged opportunities, higher salaries and prestige which go with growth of the firm."

Galbraith, *The Fourth Reith Lecture*, The Listener, Dec. 8, 1966, pp. 841, 853. For the musings of a beguilingly astute columnist on the current merger trend, see Buchwald, *Everyone is Merging*, Washington Post, June 2, 1966, p. A21.

[68] Fortune, July 1, 1966, p. 82.

[69] *Ibid.*

earnings.[70] Thus, many of the acquisitions since Geneen became President have been United States companies.[71] The proposed merger with ABC is simply the latest and most ambitious of such purchases.

ABC's merger-mindedness has an even more interesting history. In March 1964 it was reported that Norton Simon, prominent industrialist and art collector, had acquired control of 100,000 shares of ABC stock.[72] Mr. Simon was reportedly interested in a seat on the ABC Board of Directors, but Mr. Goldenson, President of ABC, was opposed to any such ambitions of Simon.[73]

By April of 1964 another group had acquired a large block of ABC stock, and the ABC Board was moved to take defensive action.

> "The board of directors of the American Broadcasting Company took unusual steps tonight to thwart what it called two 'special groups' trying to gain a voice in the conduct of the network's affairs.
>
> "By unanimous vote, the board decided to recommend to the company's stockholders that the corporation's charter be amended to eliminate cumulative voting in the election of directors." [74]

At a special meeting on May 19 the shareholders of ABC voted to end cumulative voting in compliance with the Board's recommendation.[75]

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[70] 1965 ITT Ann. Meeting of Shareholders 9.

[71] Some examples are Aetna Finance Co., Hamilton Management Corp. and Avis, Inc. See Fortune, July 11, 1966, pp. 81–82.

[72] N.Y. Times, March 14, 1964, p. 51, col. 4.

[73] "A report from Wall Street was vague: 'This could be a battle for control of ABC. Things are moving very quickly. May could give the answer.' " *Ibid.*

[74] *Id.*, April 7, 1964, p. 43, col. 1.

[75] *Id.*, May 20, 1964, p. 59, col. 4.

Cumulative voting is a procedure whereby minority shareholders can elect minority representation to a board of directors by "cumulating" all their votes for all directors into a winning vote for one or more. If forced to vote for each director's position the minority obviously is outvoted by the majority each time and has no representation. Typical of legal analysts' attitude toward cumulative voting is the following: "An amendment abolishing cumulative voting deprives the minority of a substantial protection, and can hardly be justified by the majority's desire to be unhampered by minority representation. Where there is cumulative voting, representation on the board enables the minority to protect its interests and contribute its views on cor-

Despite the defensive action of the corporation. Mr. Simon's pursuit of ABC stock continued. By July of 1965 Simon was reported to control 400,000 shares, about 9% of the outstanding ABC stock, and the largest single block controlled by any one person.[76] There was speculation that

> "a battle for control of the ABC entertainment complex might be in the offing.
>
> "Wall Street circles familiar with ABC management's thinking asserted flatly that the company was determined not to let Mr. Simon in the corporate door short of his acquisition of 51 percent of the stock." [77]

In February of 1966 ITT and ABC entered into a merger agreement. But news of the merger had broken earlier. The New York Times reported in December 1965:

> "Many trade sources and Wall Street observers interpreted the merger proposal as one way for Leonard H. Goldenson, President of ABC, to avoid a showdown with Mr. Simon in their continuing battle for control of ABC. . . .
>
> "One reliable source indicated that ABC had made 'overtures' to IT&T sometime in 1964. This would coincide with the reported entry of Mr. Simon into the picture." [78]

porate policy, thereby establishing greater harmony between ownership and management. The majority shareholders are not injured, since they continue to control, while gaining increased protection in the event that they become the minority. It could be argued that minority representation decreases the board's efficiency, but the representation of minority views may result in more careful formulation of corporate policy." 69 Harv. L. Rev. 538, 549 (1956). See Fletcher, Corporations § 2048 (1952). One distinguished commentator insists that in those states which allow cumulative voting, the majority shareholders should not "have the power to withdraw the privilege by amendment of the character or otherwise." Ballentine, Corporations, § 177, at 406 (1946).

[76] N.Y. Times, July 19, 1965, p. 1, col. 5.

[77] *Ibid.*

[78] *Id.*, Dec. 2, 1965, p. 60, col. 1.

For an interesting analysis of the proposed merger with emphasis on its history see Kroeger, *Merger Machine in High Gear*, Television, July 1966, p. 21.

The merger agreement provided for continuation of the ABC management and Board, but dissident ABC shareholders found their influence was to be greatly diluted as holders of small proportions of the stock in a much larger company. That ABC's management viewed the merger at least partially as a defense against dissident stockholders became clear during the hearing before the Commission. In answer to whether the stockholdings of Mr. Simon accelerated ABC's interest in merger with ITT, Mr. Goldenson said, "Not Mr. Simon specifically, but any minority stockholder who would try to take a position to place pressures upon us." [79]

Thus did the expansion-minded conglomerate and the shareholder-shy entertainment complex find their way to this Commission, seeking approval of their proposed merger. The brief history of press comment on the events leading up to the merger becomes all the more interesting in light of the strained case which the parties made in attempting to justify their union as promoting the public interest.

III. THE MERGER SUBSTANTIALLY HARMS THE PUBLIC'S INTEREST IN INDEPENDENT IMPARTIAL SOURCES OF INFORMATION, AND IN ECONOMIC COMPETITION

A. *ITT's Foreign and Defense Interest Are Potentially Inconsistent With the Integrity of ABC's News Reporting*

The principal danger which inheres in this merger is not difficult to comprehend. Even the majority recognizes it.[80] It is the potential conflict of interest between the business interests which comprise ITT and ABC's broadcasting responsibility to the public, especially in news and public affairs.

[79] Record 579. Compare note 75, *supra*, regarding "pressures" from minority shareholders to be heard by the management of their corporation.

[80] The Commission's opinion states,

"One of the principal issues that concerned the Commission in this proceeding was whether the large business interests of ITT might be permitted to exert an influence on the broadcasting activities of ABC, and particularly whether there would be any commercial influence on the performance of the journalistic function—the reporting of news and news commentary—or on the selection, scheduling or treatment of public affairs programming."

The ITT system represents a unique mixture of foreign interests and domestic companies involved in defense and space work. It is probably the outstanding example of an American corporation with inherent structural impediments to the wholesome, independent operation of a radio and television network and seventeen broadcasting stations.

Congressional concern with foreign involvement in American broadcasting companies is strongly evidenced in the Communications Act of 1934. Section 310(a) provides:

> "The station license required hereby shall not be granted to or held by—
> (1) Any alien or the representative of any alien;
> (2) Any foreign government or the representative thereof;
> (3) Any corporation organized under the laws of any foreign government;
> (4) Any corporation of which any officer or director is an alien or of which more than one-fifth of the capital stock is owned of record or voted by aliens or their representatives or by a foreign government or representatives thereof or by any corporation organized under the laws of a foreign country;
> (5) Any corporation directly or indirectly controlled by any other corporation of which any officer or more than one-fourth of the directors are aliens, or of which which more than one-fourth of the capital stock is owned of record or voted after June 1, 1935, by aliens, their representatives, or by a foreign government or represenative thereof, or by any corporation organized under the laws of a foreign country, if the Commission finds that the public interest will be served by the refusal or the revocation of such license." [81]

In fact, the irony in today's decision fairly seethes when one realizes that the Congressional hearings on the 1934 Communications Act reveal that Section 310(a) was the product not alone of legitimate generalized concern. It was aimed at one

[81] 47 U.S.C. 310(a) (1964).

company in particular: International Telephone and Telegraph—the very company which now seeks to control ABC.[82]

Of course, ITT as presently constituted does not technically come within the prohibition of Section 310(a). It no longer has the foreign officers and directors that it had in 1934. However, ITT's involvement in foreign countries is very extensive now, just as it was in 1934. The rationale behind the Section 310(a) prohibition is fully as applicable to a company that earns 60 percent of its income from foreign subsidiaries managed by aliens, or otherwise deeply involved in foreign affairs, as by a company whose Board is partly composed of alien directors. Moreover, although no officers of the parent holding company, ITT, or members of its board, are aliens, a very large percentage of the officers and directors of its foreign subsidiaries are not American citizens.[83] This truth comes even closer to the letter, as well as the spirit, of Section 310(a) than the foreign earnings. The involvement of these officers and directors in other foreign business ventures is too extensive to begin to document thoroughly.[84] But a hint of the involvement of ITT officials in foreign affairs is conveyed by the fact that three of them are members of foreign legislative bodies, two of the British House of Lords and one of the French National Assembly. Another is a former premier of Belgium. And several have positions with ministries of foreign governments or as officials of government-owned industries.[85] Three directors of the Chilean telephone subsidiary are appointed by the Chilean government, and that number will increase progressively until seven members of the fifteen-man board are appointed by the government.[86]

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[82] See *Hearings on S. 2910 Before the Senate Committee on Interstate Commerce*, 73d Cong., 2d Sess. 118–35, 160–73 (1934); *Hearings on H.R. 8301 Before the House Committee on Interstate and Foreign Commerce*, 73d Cong., 2d Sess. 20–28, 206–32 (1934).

[83] See Reply No. 1, accompanying Letter from Mr. Harold S. Geneen to Commissioners Robert T. Bartley, Kenneth A. Cox, and Nicholas Johnson, Nov. 17, 1966.

[84] *Ibid.*

[85] *Ibid.*

[86] See Reply No. 1 accompanying Letter from Mr. Harold S. Geneen to Commissioners Kenneth A. Cox and Nicholas Johnson, Dec. 8, 1966. ITT requested, in accordance with Section 0.417(a)(5) of the Commission's rules,

ITT is bound by contract, once approved by the Chilean Congress, to sell 49 percent of the stock in the telephone subsidiary to the government and other Chilean interests. In fact, the government of Chile retains an option to acquire the entire company if it so desires. One of the stated objectives in the contract is to "Determine, in the telecommunications field, joint areas of action and procedures of execution to ensure the due coordination of Chitelco's [the ITT subsidiary's] plans with the State's policy and plans on the matter." [87] ITT owns 13 percent of the shares of Indian Telephone Industries, Ltd., of which the Indian government owns more than 75 percent.[88] ITT is bound by a 1964 contract with the Indian government not to transfer any of its Indian telephone stock to "a resident of India" or "a resident of any country not then politically acceptable to the Government [of India]." [89] ITT owns 20 percent of a French telecommunications research company of which the French government is the majority stockholder, and 5.5 percent of a Swedish company in which the Swedish government is a 50 percent stockholder.[90]

Such examples are provided merely to illustrate the character and depth of ITT's close involvement with the governments of foreign countries. They do not begin to exhaust the matter. Any company which derives 60 percent of its income from foreign sources, and has subsidiaries in more than forty countries, obviously will develop an almost unlimited number of relationships and responsibilities in those countries.

Certainly ITT is aware, even if a majority of this Commission is not, that such an international corporation must involve itself closely in the affairs of foreign governments. At the last annual stockholders' meeting, ITT's president reported,

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47 C. F. R. § 0.417(a)(5) (1966), that this material be denominated "not available for public inspection." The Commission has agreed to keep this material confidential, and hence it is not part of the public record in this case.

[87] *Ibid.*

[88] See Reply No. 2, *id.* This material is part of the public record.

[89] See Reply No. 3, *id.* This material is not part of the public record. See note 86, *supra.*

[90] See Reply No. 2, accompanying Letter from Mr. Harold S. Geneen to Commissioners Kenneth A. Cox and Nicholas Johnson, Dec. 8, 1966.

> "On all fronts today, ITT is expanding its activities and responsibilities. We now employ over 200,000 persons in more than 50 countries, *representing an extensive involvement and responsibility in the economies and societies of the countries* in which we operate."[91]

ITT is mindful that it is not always treated hospitably by the countries in which it operates. At the 1962 stockholders' meeting, President Geneen noted proudly that ITT,

> "has in its time met and surmounted every device employed by governments to encourage their own industries and hamper those of foreigners, including taxes, tariffs, quotas, currency restrictions, subsidies, barter arrangements, guarantees, moratoriums, devaluations, —yes, and nationalizations."[92]

Nevertheless, the company has often aroused the enmity of foreign governments and peoples. There were riots directed against ITT in Spain in the early 1930's.[93] ITT property has been expropriated in eight countries, including Brazil.[94] When the Brazilian state of Rio Grande do Sul ordered confiscation of the ITT-owned telephone company in February 1962 the expropriation decree revealed the great bitterness which ITT and and its subsidiary had aroused in the state.[95]

It is irrelevant to my purpose to suggest that ITT is always, or even ever, at fault when it becomes embroiled in international affairs. Most of the expropriations of its property have been by Communist states, and were part of wholesale confiscations.

The point is simply that a company with interests like those of ITT necessarily will find itself involved in relations and conflicts with foreign governments.

Nor are ITT's problems in this respect a thing of the past. Only two weeks ago, there were reports of the almost unanimous opposition of the Peruvian Senate to an increase in tele-

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[91] 1966 ITT Ann. Meeting of Shareholders 17. [Emphasis added.]

[92] 1962 ITT Ann. Meeting of Shareholders.

[93] *Hearings on H.R. 8301 Before the House Committee on Interstate and Foreign Commerce*, 73d Cong. 2d Sess. 52 (1934).

[94] See Reply No. 10, accompanying Letter from Mr. Harold S. Geneen to Commissioners Kenneth A. Cox and Nicholas Johnson, Dec. 8, 1966.

[95] *Ibid.*

phone rates negotiated by the ITT-owned telephone company and the government of Peru. The report noted:

> "For many years, the company has been the target of nationalistic elements opposed to foreign ownership of local utilities. This hostility has been increased by public resentment over the company's failure to improve its inadequate service." [96]

In pursuing its business operations in these foreign countries, ITT must constantly endeavor to affect the course of political and economic events in foreign countries.[97]

Policies of the United States government are of no less concern to ITT, because of the effects they may have on ITT's foreign investments. At annual meetings of ITT's stockholders reports often are given on foreign affairs. In 1964, doubtless

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[96] The Washington Post, Dec. 14, 1966, p. 34. Even more recently a Spanish subsidiary of ITT was struck by its workers, and the subsidiary was reported to have effected a lockout. The Washington Post, Jan. 27, 1967, p. 23, col. 1, *id.*, Feb. 10, 1967, p. 18, col. 4.

[97] This general problem, and its particular applicability to ITT, was pointed out by FCC Chairman Paul Porter in testimony before the Senate Interstate Commerce Committee in 1945. Porter said:

"I may analogize the present situation in the communications field to that in ocean transportation in the past. There was a time when the master of a vessel was in effect the diplomatic representative of his country in contact with the governments in the foreign ports where he touched. That situation is not altogether unlike our present situation in which the managements of the international communications companies are in a position to shape our international communications policy through their ability to negotiate and make arrangements with the representatives of foreign governments. Indeed, managements of communications companies may at times be in the position of serving interests other than our own national interests. At the International Communications Conference held at Warsaw in 1936, at which the United States was represented by its Government officials, a number of persons connected with our United States carriers were present and actively participated in the conference as members of delegations of certain Latin-American countries. Such situations and circumstances whereby our carriers may, because of the necessity of protecting their local interests at foreign points, engage in political activity within the foreign country, raise serious considerations which I think this committee should take into account. A glance at a chart which I have submitted (F. C. C. Exhibit No. IX (1)) will show the extensiveness of the interests of the ITT in foreign countries. Its large financial stake in business ventures in foreign countries is indicative of the potential conflict of its interest as an operator of United States communications with its interest in the protection of foreign holdings."

Hearings Before a Subcommittee of the Senate Committee on Interstate Commerce, 79th Cong., 1st Sess., 173–74 (1945).

referring to the aftermath of the Brazilian expropriation, when ITT was able to exact much better terms of compensation than were originally offered. President Geneen told the gathering:

> ". . . during the year 1963 the security of all our operations in underdeveloped countries was considerably strengthened by better government-to-government understanding on the part of our own government and the governments of other countries, particularly in Latin America.
>
> Recent events in Brazil have dramatically supported an improving turn of events there, and I draw your attention to the significance of President Johnson's recognition of the new Brazilian Government, in line with what may well be known in the future as the 'Mann Doctrine,' after our Assistant Secretary for Latin American Affairs, who recommended it. . . .
>
> Finally, there is the very important basic policy of the U.S. government, expressed by Congress in the Hickenlooper Amendment to the AID program, which has increasingly aligned the U.S. Government with those countries that show integrity in their handling of invested properties of the U.S. shareholders." [98]

That ITT has been very active in advocating self-serving policies to our government was quite clear. Geneen said,

> "I think anybody [who] knows of our activity over the past few months knows that we have been foremost in fighting for what we feel is the principle of private investment all over the world, not just for ITT's assets." [99]

At the 1963 annual meeting, Geneen gave ITT's management a large part of the credit for the Hickenlooper Amendment, "which is the finest possible reassertion of the historic policy of the United States Government to back and to take strong steps to support the rights of its citizens in Latin America and other foreign areas." [100] He said of the 1962 tax bill that ITT "and its management were probably the most active and effective group in having the proposals amended

[98] 1964 ITT Ann. Meeting of Shareholder 10–11.
[99] 1962 ITT Ann. Meeting of Stockholders.
[100] 1963 ITT Ann. Meeting of Shareholders 7.

to assure continued freedom to U.S. foreign competition abroad."[101]

One rather stark example of the very great interest which ITT has in U.S. government foreign policies is provided by a breakdown of assets by countries, which ITT submitted to the dissenting Commissioners. Of ITT's total net assets 5.8 percent consists of "U.S. Dollar AID guaranteed financing for Chilean utilities."[102] To say the least, ITT has a very great stake in maintaining this guaranteed financing by the Agency for International Development and in encouraging other such guarantees.[103]

The conflicts which necessarily arise when a company so heavily involved in foreign affairs owns a radio and television network are innumerable and continuous. Only the future can provide specific examples, but it is not difficult to imagine quite plausible possibilities.

Chile, Peru, Brazil or India might someday wish to nationalize the telephone companies which ITT now owns in whole or in part. It has happened to ITT in the past and could easily happen again. ABC news and public affairs personnel would have to comment on the nationalization and might wish to editorialize or treat the affair at length. If one admits the possibility that such nationalizations could be put in a favor-

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[101] *Id.* at 6–7.

[102] See Reply No. 9, accompanying Letter from Mr. Harold S. Geneen to Commissioners Kenneth A. Cox and Nicholas Johnson, Dec. 8, 1966.

[103] In 1961, opposing President Kennedy's proposals for increased taxes on overseas subsidiaries Mr. Geneen said,

"We certainly cannot handle our foreign companies now in a manner that would break the spirit of these understandings of long duration and that would tend to indicate to such countries that the United States is going to exert a sovereign rights (sic) to dictate to these national companies regardless of the interest of the host country."

Hearings on the President's 1961 Tax Recommendations Before the House Committee on Ways and Means, 87th Cong., 1st Sess. 2942 (1961).

And again:

"We own 51 percent of our subsidiary in Italy. Now, you tell me how much local pressure I am going to receive from, you might say, the minority group in that company as to relinquishing control for no other reason than a discriminatory sort of tax which would be applied to them, as well as us, for the median of 2 percent of stock."

Hearings on H.R. 10650 Before the Senate Committee on Finance, 87th Cong., 2d Sess. 2426 (1962).

able light, the potential for conflict with ITT's economic interests is obvious.

Even less confiscatory actions, such as higher taxes, might prompt ITT to encourage retaliatory policies by the United States. ITT had done so in the past by encouraging the Hickenlooper Amendment and might do so again. If the ABC News staff felt retaliation unwise, again a conflict would exist.

The number of potential conflicts is endless. One extreme, but not implausible additional example might be offered. A dissident rebel movement could develop in a country where ITT had large investments. Brazil is the scene of recurrent anti-Government agitation,[104] and ITT is heavily engaged in that country.[105] Suppose ABC News wished to produce a documentary picturing the rebellion as justified, and the government of Brazil insisted that the program not be shown? Would anyone in ABC News be inclined or feel free to propose the show in the first place? Would they be able to withstand suggestions from within or without ITT that ABC News' resources might better be used on other assignments?[106] The added leverage which the government of Brazil could exert because of ITT's Brazilian holdings would be substantial.

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[104] See, *e.g.*, N. Y. Times, Sept. 18, 1966, p. 26, col. 1; *id.*, March 7, 1965, p. 31, col. 1.

[105] 1965 ITT Ann. Rep. 34.

[106] I should make it clear that the general reporters of my acquaintance in the broadcast and print media possess a fierce pride in their own personal independence. They are able. I neither could nor would impugn their ability or integrity. But it is often management, rather than reporters, which makes judgments as to the stories to be covered, how they are to be played, and whether or not they should be killed. Many reporters have had personal experience with a story that was killed by an editor for reasons unrelated to its merit, news value, and timeliness. For one example, see Bagdikian, *Case History: Wilmington's "independent" newspaper*, Columbia Journalism Review, Summer, 1964, p. 13. In evaluating one of the major issues in this case—the possibility of economic and other extraneous pressures distorting an independent expression of information and opinion by reporters for mass media—one is struck with the absence of many hard, honest, documented "case studies" of the sociology of pressure on the news gathering and dissemination process. Speculation, charges, selected incidents, and "common knowledge" abound. (See, *e.g.*, illustrative incidents cited in note 115, *infra*.) One highly valuable, delightfully written, and usefully detailed "case study" of the decision-making process in the network television news business is Friendly, Due to Circumstances Beyond Our Control (1967).

Recently an ABC news team was reported to have been detained by Span-

If such a situation seems unlikely, one need only think of the boycotts by Arab countries of companies which do business with Israel.[107] In Spain, where ITT has very large holdings,[108] the Government has been boycotting a motion picture company since 1964 because one of its movies, "Ride a Pale Horse," dealt with the Spanish Civil War in a manner displeasing to the government.[109]

With all the inherent difficulties in obtaining accurate information from abroad, why risk even the remote possibility that news judgments presented to the American people might be distorted to serve ulterior corporate economic interests? What conceivable justification could there be for government's participation (through today's action by this Commission) in the creation of a corporation that constantly will be confronted with a conflict between its own best economic interests and the needs of our people, and our government, for broadcasting journalism of completely unimpeachable integrity from around the world?

Foreign relations provide a dramatic but by no means exclusive source of conflict between ITT's business interests and its duties as a broadcaster.

ABC might want to run a documentary favoring the use of domestic satellites for broadcating. (Indeed, it happens to have been ABC that first proposed such a use, leading to the FCC hearing that produced the now famous Ford Foundation pro-

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ish police after they tried to film student activities there. They did not have the special permit to use a newsreel camera, a permit required in Spain. N. Y. Times, Feb. 7, 1967, p. 11, col. 1. This incident, combined with those detailed in footnote 96, *supra*, clearly indicate the threat to the independence of ABC where ITT's interests are concerned.

[107] See N. Y. Times, Nov. 21, 1966, p. 1, col. 7.

[108] 1965 ITT Ann. Rep. 35.

[109] The Washington Post, Dec. 20, 1966, p. D9; Broadcasting, Dec. 12, 1966, p. 63. Spain has also excluded an American newspaper which carried stories displeasing to it. N. Y. Times, April 27, 1963, p. 2, col. 8.

One might ask if America has ever been more aware than today of the extent to which its interests, indeed the lives of its sons, can become deeply involved in the affairs of a tiny mountainous country halfway around the world? Who knows where may it be tomorrow? Today, when foreign policy decisions can be made on the basis of reports received at electronic speed, it is more essential than ever that all America be accurately and fully informed at such a time by mass media whose integrity and singleness of purpose are above suspicion.

posal for financing educational television with the money saved by broadcasting via satellite.)[110] ITT might have opposed this proposal because of its interest in the Communications Satellite Corporation.

ABC might want to criticize the high level of defense spending, or the large sums being expended in the space effort, or even present programs which discuss conflicting views.[111] Because of ITT's interest in both defense and space work, such positions would jeopardize ITT's economic interests.

ABC might editorially favor truth-in-lending legislation, while ITT finance subsidiaries[112] would presumably be opposed.

In these and countless other ways ITT, as the owner of ABC, constantly will be faced with the conflict between its profit-maximizing goals—indeed, obligations to shareholders—which

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[110] See Legal Brief and Comments of Ford Foundation, Establishment of domestic non-common carrier communications-satellite facilities by non-governmental entities, Docket No. 16495, FCC, March 2, 1966.

[111] Without going into the merits of the issues involved, I would simply note that there is a substantial body of respectable opinion in this country which views with alarm an increasing influence in our society of the military, and of industrial concerns which depend to a great extent on military and defense spending. In his farewell address to the nation, President Eisenhower issued an urgent warning:

"In the councils of government, we must guard against the acquisition of unwarranted influence, whether sought or unsought, by the military-industrial complex. The potential for the disastrous rise of misplaced power exists and will persist.

"We must never let the weight of this combination endanger our liberties or democratic processes. We should take nothing for granted. Only an alert and knowledgeable citizenry can compel the proper meshing of the huge industrial and military machinery of defense with our peaceful methods and goals, so that security and liberty may prosper together."

107 Cong. Rec. 2210 (1961). Only days before the majority approved this merger, Senator Clark of Pennsylvania issued a similar warning. The Washington Post, Dec. 19, 1966, p. B8. See Cook, The Warfare State (1963); Mills, The Power Elite 198–224 (1956); Ekirch, The Civilian and the Military (1956); Coffin, The Armed Society 23–24, 197, 226–37 (1964); Cater, The Fourth Branch of Government 165–67 (1959); *cf.* Buchwald, *Live and in Color*, The World Journal Tribune, Oct. 6, 1966, p. 13; and *Countdown*, reprinted in Son of the Great Society 139 (1966). *But cf.*, Buchwald, *Red Alert*, reprinted in Son of the Great Society 166 (1966).

[112] ITT's finance subsidiaries include International Telephone and Telegraph Credit Corp., ITT Aetna Finance Co., and Kellogg Credit Corp. See 1965 ITT Ann. Rep. 35.

characterize all business corporations, and the duty to serve the public with free and unprejudiced news and public affairs programming.[113] The issue is both whether anything damaging to ITT's interests is *ever* broadcast, as well as *how* it is presented.

History is not without examples of an obvious truth: broadcast properties, like all other enterprises, sometimes will be used to serve ulterior ends when the opportunity arises. There are many examples—the following two are but illustrative: (1) Officials of the Trujillo regime in the Dominican Republic were reported to have paid $750,000 to officers of the Mutual Radio Network in 1959 to gain favorable propaganda disguised

[113] At the annual meeting of stockholders in 1965, ITT's president said,

"Now let me say simply what we here at ITT believe management's job to be. In that great book recently written by Mr. Alfred P. Sloan, Jr. on his early days at General Motors—there was a critical time in its affairs, as he relates it, when he felt it was necessary to make clear that the real job of the company was to make money—not just automobiles. This was a great statement of corporate philosophy. And, in turn, I believe that when any management forgets this simple truth, it is not good for its shareholders."

1965 Ann. Meeting of Shareholders 11.

Senator Warren G. Magnuson warned the FCC in 1956:

"Although this [broadcasting] is a growth industry which naturally attracts capital, we who are responsible to the public in this field must bear in mind that very often 'he who pays the fiddler calls the tune.' . . . Broadcasting stations should not be simply house organs grinding out the tune of big business interests which own them—and there is some evidence that this is a real danger today. The Commission should be on guard against the intrusion of big business and absentee ownership—such as film producers, aviation carriers, magazine publishers, insurance companies, or other large investors interested in the tax advantages offered by the broadcast industry—to dominate the field of station ownership. . . . they [radio frequencies] should not be permitted to fall into the control of those who are only interested in the profits which can be derived from broadcasting, or in using them for the self-aggrandizement of large corporate owners."

S. Rep. No. 2769, 84 Cong., 2d Sess. iv (1956).

A former Chairman of this Commission, James Lawrence Fly, once posed and attempted an answer to two fundamental questions:

"[W]hat is freedom of speech? What do the people of a democracy require?" Fly, "Freedom of Speech and the Press," in Safeguarding Civil Liberty Today 59, 63 (1945). His answers bear directly on the issues now before us. "A few objectives are relatively obvious," he wrote, and then went on to list seven:

"(1) free access to all pertinent news sources; (2) ways and means for the ready and adequate collection and distribution of news; (3) full presen-

as news.[114] (2) Philco alleged to this Commission that RCA was using NBC stations to serve its broader corporate interests. In particular, (a) NBC stations said "a service of RCA" during station breaks; (b) NBC stations covered RCA activities as news when other stations did not; (c) color programs on NBC advised the public that RCA is the pioneer and developer of compatible color; (d) the "Today" show emphasized its origination in RCA exhibition hall; and (e) NBC stations incorporated RC and RCA into their call letters.[115]

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tation of fact and opinion: (4) presentation of opposing points of view and argument; (5) the absence of bias, prejudice, suppression, or distortion; (6) the absence of bottlenecks, overconcentration of control, or domination by a few special interests, especially where the pipe lines to the market place of thought are limited in number; (7) the presence of diversity in the control of news sources and of mechanisms for news distribution to the public."

Ibid. Each is involved in this case. See also Cater, The Fourth Branch of Government (1959); Cater, Power in Washington 199–235 (1964); Lippmann, Public Opinion (1922); Commission on Freedom of the Press, A Free and Responsible Press (1947); President's Commission on National Goals, Goals for Americans 3, 5, 72–73, 77 (1960). One of the most recent and useful anthologies on these issues is Berelson & Janowitz, Reader in Public Opinion and Communication (2d ed., 1966).

[114] 105 Cong. Rec. A7954 (1959); see Skornia, Television and Society 47 (1964); Cater, Power in Washington 210–12 (1964).

[115] See Philco Corp. v. Federal Communications Comm'n, 293 F. 2d 864 (D.C. Cir. 1961). Mr. Goldenson acknowledged an awareness of this type of potential problem with ITT (Record 308) and concluded they would be undesirable practices (Record 307).

Further examples abound of unhealthy use of the media which are relevant in this context. A strong suspicion has been raised, for instance, that a CBS sports announcer was fired because his reporting of the New York Yankee baseball games was uncomplimentary to that team. (He had, for example, allowed the cameras to report the fact that the stands were near-empty.) The Yankees, of course, are owned by CBS. Columbia Journalism Review, Fall 1966, p. 3; see N. Y. Times, Oct. 9, 1966, p. D21. Without regard to the veracity of the report, it is relevant that the noted television producer, Mark Goodson, has alleged that one of the fruits of RCA's acquisition of Random House was the attempt to force its president, Bennett Cerf, to forego his role as a regular panelist on a popular CBS program, "What's My Line?" Mr. Goodson said:

"[R]ecently—as you know, RCA is merging with Random House—and great pressure has been put on Bennett Cerf by RCA to get off. And now you'd say, 'How silly for RCA to really be concerned that Bennett Cerf would be on "What's My Line?"' But do you know really why? Because David Sarnoff's wife watches "What's My Line?" every week and this is very irritating to the General, you see."

Transcript of the radio program, "WCBS Radio Looks at Television,"

Of course, there are many threats to news integrity beyond the kind of conglomerate takeover proposed by ITT. ABC has other, potentially conflicting, business interests of its own.[116]

Feb. 28, 1966.

On several occasions, broadcast editorials have opposed interests such as pay TV, which posed an economic threat to the station itself. The Commission has at times found a station's treatment of issues affecting its own interests in violation of the "fairness doctrine." See, *e.g.*, The Spartan Radiocasting Co., 33 FCC 765 (1962). A political candidate who also owned several stations is reported to have used those stations as an aggressive tool in his own campaign. Columbia Journalism Review, Summer, 1964, p. 2. Howard K. Smith is reported to have said, "if as many people listen to me on ABC as used to edit my copy at CBS, we'll have a large audience to build on." See *Id.*, Summer, 1962, p. 51. And Eric Sevareid is reported to have said of putting on a news program, "The ultimate sensation is the feeling of being bitten to death by ducks." Time, Oct. 14, 1966, p. 58.

Examples of subversion of the proper function of newspapers is even more common. A railroad-owned newspaper did not cover railroad wrecks. *Id.*, Summer, 1963, p. 46. A newspaper heavily in debt to the Teamsters Union has given exceedingly favorable coverage to Jimmy Hoffa. *Id.*, Spring, 1966, p. 8–14. Claims of journalistic independence must be viewed with a great deal of skepticism in the face of recurrent interference by management in the reportorial and editorial functions both in newspapers and in broadcasting. The constant interference of the DuPont interests in the editorial policies of the Dupont-owned Wilmington daily newspapers finally led to the departure of the executive editor. See *id.*, Summer, 1964, 13–17. Likewise Anaconda Copper used to interfere with its newspapers' treatment of certain political candidates before Anaconda divested itself of its newspaper interests. *Id.*, Summer, 1963, p. 46. See also Liebling, The Press (1964).

Foreign attempts and success in influencing the press, in addition to the Dominican Republic episode, are reported *id.*, Fall, 1963, pp. 29–35. For a description of the role of the press in the entry of the United States into the Spanish-American War, see the section on "yellow journalism" in Emery, The Press and America 427–46 (1962). It has been reported that "William Randolph Hearst . . . claimed that it cost him three million dollars to bring about American intervention in Cuba." Hicks, The American Nation 309 (2d ed. 1949). For an analysis of the problems created by ownership of more than one type of media by a single entity see Levin, Broadcast Regulation and Joint Ownership of Media (1962).

[116] For instance, ABC is in the record, publishing, and theater business and owns amusement centers. And the "business" of broadcasting can influence the "programming" of broadcasting. Perhaps the rigged quiz show and "payola" scandals were not first exposed on radio or television because the broadcasters themselves would have been the ones most hurt. (Mr. Goldenson could think of no instance where a network had taken a documentary position opposed to the economic interests of the network's owners. Record 249.) See Ferry & Ashmore, Mass Communications 9–38 (1966) for a discussion of the influence and distortions of the media of mass communications. While we might wish to minimize the economically-based impediments to

The influence of advertisers on program content has been often documented.[117] The "social control" of newsmen's independence has been studied.[118] The sociological pressures on management have been the subject of substantial theorizing.[119] The

information and opinion integrity that inhere in the big business of broadcasting, we can accept them as inevitable, and very limited in subject matter area, and look to the Columbia Journalism Review and print media as a check on abuse. The exponential multiplication of such pressures that come from a conglomerate corporation's control of a network are not inevitable—this Commission could have avoided those problems by failing to find this merger serves the public interest.

[117] See, *e.g.*, Opotowsky, TV The Big Picture 69–80 (1962); H.R. Rep. No. 281, 88th Cong., 1st Sess. 106 (1963). ITT's counsel acknowledged at the hearing that influence of advertisers is "a real problem, and applies not only to the local stations throughout the United States but to the networks as well." Record 248. And ABC's president, while denying that ABC could ever be influenced by advertisers, felt it was undesirable to have individuals on ABC's board of directors who were associated with products advertised on ABC. Record 264.

Advertisers can inject political as well as strictly economic considerations into broadcasting decisions. One example of this was Kemper Insurance Company's breach of contract in withdrawing sponsorship of news programs after ABC aired a documentary on Richard Nixon in which Alger Hiss appeared. ABC–Pt. v. American Mfrs. Mutual Ins. Co., 42 Misc. 2d 939, 249 N.Y.S. 2d (1963). See Record 246–47.

Similar and sometimes more subtle pressure is brought on others of the mass media. It is, of course, more than coincidental that history textbooks in the North and South give very different pictures of the Civil War. See The Washington Post, Dec. 3, 1966, p. 12. It was recently reported that certain textbooks which frankly depicted the treatment of minorities in this country were encountering strong opposition from those who would expunge all references not complimentary to the United States. The Washington Post, Dec. 11, 1966.

The lesson I would derive from these examples was perhaps best summarized by Edward P. Morgan while musing about a recent advertising campaign for the telecast of a big football game: "What if some wealthy scoundrel decided to back some unprincipled demagogue for president and bankrolled an equivalent saturation campaign on TV? . . . We have not, of course, arrived at the point of succumbing to some sinister—or beneficial—Big Brotherliness via broadcast brainwashing so this is a fine time to examine the problem while we still have thinking room." Washington Evening Star, Jan. 20, 1967, p. D11.

[118] Breed, *Social Control in the News Room*, in Schramm, Mass Communications 178–94 (1960).

[119] See Whyte, The Organization Man 46–59 (1949); Riesman, The Lonely Crowd (1953). Indeed this theme is pursued in the popular arts. See Burrows, Weinstock & Gilbert, How to Succeed in Business Without Really Trying (1962), made into a musical comedy with lyrics and music by Frank Loesser, and now popular as a movie.

bias, or "credibility quotient," of the individual reporter is an important determinant of news accuracy.[120] No, I would not suggest for a moment that conglomerate ownership is the only distorting lens between the space-time events of the real world and the reports that reach our citizenry. The entire process is worthy of diagnosis and treatment. But the evils of conglomerate ownership, like preventable disease, are unnecessary. The other factors are more difficult, perhaps impossible, to control. In any event, it is the issue of conglomerate control that is before us now.

The best we can do is to try to provide as much insulation as possible for the industry's programming from extraneous economic considerations. The worst we can do is to encourage mergers like this, which expose businessmen to the daily temptation to subvert the high purpose and indispensable role of the broadcast media in a free society.

ITT officials repeatedly have assured us that there would be no interference with the ABC programming decisions. I do not doubt the present sincerity of these men. Yet, I would find not only the promises, but even their possible fulfillment, inadequate to serve the public interest. At the very least it must be obvious that these assurances are given by men—and we are turning these broadcast properties over to corporations. The presidents of the two companies who appear before us to offer their personal assurances may be out of office tomorrow. Indeed,

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[120] Bagdikian, *The Way It Was and the Way I Call Them*, Columbia Journalism Review, Fall, 1966, pp. 5–10. See The Washington Evening Star, Jan. 3, 1967, p. A–8, col. 3. Robert Kintner has written "But every reporter knows that when you write the first word, you make an editorial judgment." Kintner, Broadcasting and the News 13 (1965). See also Bauer, *The Communicator and the Audience*, Pool and Shulman, *Newsmen's Fantasies, Audiences, and Newswriting*, White, *The "Gatekeeper": A Case Study in the Selection of News*, Gieber, *News Is What Newspapermen Make It*, and Breed, *Mass Communication and Sociocultural Integration* all reprinted as Part III, *The Communicator and His Audience* in Dexter and White (eds.), People, Society, and Mass Communications (1964).

The influence of language on perception and reporting by journalists and others is a subject of interest to general semantists. See *e.g.*, Schwartz, *General Semantics and the Reporter's Job*, Utley, *Can a Radio Commentator Talk Sense*, Johnson, *You Can't Write Writing*, and Macrorie, *The Process of News Reporting*, reprinted in Hayakawa (ed.), The Use and Misuse of Language 79, 91, 101, 112 (1962). See also Hayakawa, Language in Thought and Action 38–50 (2d ed. 1963); Johnson, People in Quandaries 91–168 (1946); Johnson, Your Most Enchanted Listener 59–71 (1956).

as we have seen, it is only because of the merger that Mr. Goldenson's position is not very precarious right now.[121] In any case, these officials are mortal and they will surely be gone someday when this nation will still depend on ABC for a staggering proportion of its news and information.

As a safeguard against subversion of the broadcasting service, ITT has provided that ABC will remain autonomous for at least three years and that the ABC news and public affairs staff will remain independent. I might ask what happens after the three years. But suppose assurances had been provided that no ITT official could ever intentionally order distortion or alternation of programming to serve ITT's ends. Even such assurances would miss the mark. Subtle pressures on ABC officials to serve ITT interests cannot be eliminated by the most scrupulous adherence to formal independence for ABC and its editorial staff. ABC personnel will, on their own initiative, consider ITT's interests in making programming decisions. Institutional loyalties develop. These are often reinforced by the acquisition of stock in the employing company—now ITT stock, not ABC. And most important, it will be impossible to erase from the minds of those who make the broadcasting decisions at ABC that their jobs and advancement are dependent on ITT.[122]

If ITT is like most major corporations, it spends vast sums to influence its image and its economic relations—through advertising, public relations, and Washington representation.[123] I am afraid I must concede that the assurances we have been provided—that ITT will be totally oblivious to the image created for it by its own mass media subsidiary, ABC—simply strain my credibility beyond the breaking point. Are we to accept, on the parties' own self-serving assurances, that although ITT may continue to exert pressure as an advertiser on the programming of CBS and NBC, it will exert none as an owner

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[121] See Part II, *supra*.

[122] See, *e.g.*, note 118, *supra*.

[123] ITT has five registered lobbyists in Washington. This number, more than General Motors, Standard Oil of New Jersey, Ford Motors or the Pennsylvania Railroad, places ITT very high on the list of business corporations. See Deakin, The Lobbyists 122 (1966). "Lobbying is big business for business in the United States." *Id.* at 105. For a description of the relationship to broadcasting of one massive propaganda effort by a trade association (National Electric Light Association), see Barnouw, A Tower in Babel 263 (1966).

on the programming of ABC? Whether it be the product of realism or cynicism I simply must part company with what I believe to be the majority's naive and unreasoning faith in the parties' "express, positive and binding representations as to future performance." [124]

It seems elementary to me that the only real way to find adequate safeguards for the public's interest in programming integrity is to give attention to the structure of the industry, not to assurances, albeit sincere, of interested parties who may be gone tomorrow. Concern with institutional safeguards is evidenced throughout our society. The Administrative Procedure Act, which governs proceedings before virtually all administrative agencies, including this Commission, is but one example. The original determination of a disputed question of fact or policy is usually made by a hearing examiner assigned to an agency. It is vital that the examiner's decision be an independent one, uninfluenced by the members of the agency which may have to pass in review upon that decision. Accordingly, Section 11 of the APA provides:

> "Examiners shall be removable by the agency in which they are employed only for good cause established and determined by the Civil Service Commission (hereinafter called the Commission) after opportunity for hearing upon the record thereof. Examiners shall receive compensation prescribed by the Commission independently of agency recommendations and in accordance with the Classification Act of 1923. . . ." [125]

In other words both the salary and tenure of hearing examiners is determined by an entirely different agency from the one which will review the decisions of the examiners. This is obviously a recognition of the fact that true independence of

[124] Majority opinion, *supra*.

[125] 5 U.S.C. § 1010 (1964). Prophylactic rules aimed at preventing relationships which have the potential for conflicting interest are a common statutory device. For example, the Bank Holding Company Act forbids bank holding companies from owning non-banking businesses. 12 U.S.C. § 1843 (1964). Our own Communications Act is one of many forbidding Commissioners and employees from holding financial interests in regulated and related companies. 47 U.S.C. § 154 (1964).

decision-making can only be achieved by institutional independence and cannot rest on "assurances" by or to this or any other Commission. The only master which independent agencies must serve is the statute under which they operate. How much more important is this institutional independence in the case of business corporations, where loyalty is at best divided between public service and the shareholders—with power in the latter to remove officers who do not return sufficient profits.

Rather than providing real safeguards, the majority points to unreal ones: "eternal vigilance . . . continuing scrutiny for any indication that our reliance upon the assurances and safeguards set out on this record was not warranted." [126] How many times must it be pointed out that the kinds of decisions which this merger will encourage are not susceptible to scrutiny even by the most vigilant agency. And the Federal Communications Commission has a well-earned reputation of being less than a thoroughly vigilant agency.[127] One recent incident involved the renewal of station licenses held by General Electric and Westinghouse. Officials of the two companies had been convicted of criminal violation of the antitrust laws. Section 313 of the Communications Act, makes the antitrust laws specifically applicable to broadcast licensees and allows a court to revoke licenses even of civil violators.[128] And yet the FCC renewed GE's and Westinghouse's licenses without even holding a hearing.[129]

If the majority could point to any significant action which this Commission has taken in the past to assure the integrity of the news I might have greater faith in its "continuing scrutiny." In fact the examples are rare and trivial. There is neither monitoring nor preservation of the broadcasting product. Thus

[126] Majority opinion, *supra*.

[127] See, *e.g.*, Landis, Report on Regulatory Agencies to the President Elect 53–54 (1960); William K. Jones, Licensing of Major Broadcast Facilities by the Federal Communications Comm'n 217–222a (Administrative Conference of the United States, Committee on Licenses and Authorizations, 1962); Friendly, The Federal Administrative Agencies 53–73 (1962); Schwartz, The Professor and the Commission 148–164 (1959).

[128] 47 U.S.C. § 313 (1964).

[129] Westinghouse Broadcasting Co., 22 RR 1023 (1962); General Electric Co., FCC 64–641 52735.

the raw data does not even exist from which to determine how licensees treated subjects which affected their other business interests should some future "eternal vigilance" require such information.[130] Moreover, too close a scrutiny could be mistaken for censorship or intimidation, which our laws and Constitution forbid.[131] No, the only practical way to combat untoward use of broadcasting facilities by conglomerate corporate ownership is in providing the proper structure for the industry in the first place. When the majority rejects that truth it thereby effectively abdicates responsibility for this most "vital element of broadcast service."[132]

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[130] Even the current and commendable efforts of the Library of Congress, National Academy of Television Arts and Sciences, New York Museum of Modern Art, and others—designed to serve entirely different purposes—do not begin to approach such dimensions. The Federal Trade Commission, alone among government agencies, at least has a procedure for watching television—even if only the thankless task of monitoring commercials.

[131] U.S. Const. amend. I; 47 U.S.C. § 326 (1964).

[132] Majority opinion, *supra*. Substantial question exists as to whether a regulatory body could ever detect the corporate abuses I suggest are possible. But the majority has chosen to ignore even the most elemental reporting requirements. ITT counsel Cohn noted during the hearing: "Obviously, if you think it [a reporting requirement] is important and the rest of the Commissioners think it would be important, it would be part of the opinion itself." Record 381. In light of the hint in Mr. Turner's letter that ITT really expects ABC to help it finance future acquisitions such reports would seem mandatory if this Commission is even to appear to discharge its responsibility.

Such reports would be intended to verify the faith placed by the majority in the financial and other "commitments" of ITT. The reports could include evidence of (1) otherwise unavailable new programming and capital investment, made possible by ITT's financial resources, (2) new technology made available to ABC, (3) new research by ITT which would not have been done without the merger, (4) changes in corporate accounting practices which might conceal transfer of corporate funds from ABC to ITT, (5) changes in managerial structure or personnel, (6) contribution of ABC earnings to ITT's corporate performance, and (7) evidence of instances in which ABC's programming, editorials or corporate positions have been established in ways contrary to the overall interests of ITT. It is worthy of note that when ITT received Commission approval to purchase Press Wireless, several conditions were attached to the approval, in part stemming from concern over the relationship of Press Wireless to the dissemination of foreign news. ITT World Communications, Inc., 1 FCC 2d 213, 216, 222 (1965).

B. THE MERGER DOES NOT BENEFIT ECONOMIC COMPETITION AND MAY SERVE AS A SIGNIFICANT DETERRENT

Our antitrust laws, made explicitly applicable to broadcasting by the Communications Act, [133] are premised on the notion that improved products and services will result from giving full sway to the forces of free and open competition. Of course, the Commission's evaluation of the public interest implications of a merger must go far beyond conventional antitrust law concepts. Yet no one can question that the effect on competition in broadcasting and networking should be relevant to this Commission in determining whether to approve a transfer of broadcast properties.

Obviously it cannot serve the public interest for this Commission to approve the merger if the two companies will thereby violate the antitrust laws. But our concern is not negative; it is not enough that the merger would not violate the antitrust laws. The standard is, or should be, affirmative. Will the merger promote competition, or otherwise serve the public interest? It is not our task to sue to dissolve merged companies that do not serve the public interest. That is the responsibility of the Department of Justice. Our job is to authorize the merger of none but those companies that will promote the public interest.

The proposed merger has been pictured both by the parties and by the majority as necessary to enhanced competition among the three networks. Little attention has been given to the detriment which might be worked by the merger on competition in the network market—the existing three-network market, and possible future markets with more competitors.

It is my view that the supposed benefits to competition are unreal or unfounded hopes, and that inhibition rather than enhancement of competition is likely to result from the merger.

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[133] "All laws of the United States relating to unlawful restraints and monopolies and to combinations, contracts, or agreements in restraint of trade are hereby declared to be applicable . . . to interstate or foreign radio communications." 47 U.S.C. § 313 (1964).

Indeed, in my opinion, the merger may well violate Section 7 of the Clayton Act.[134]

1. Refinement of Concepts

Although we blithely talk of "competition," a certain refinement of concepts is necessary to any meaningful discussion of the impact which this merger may have. Competition might be defined as the struggle for business in the marketplace between economic units providing reasonably interchangeable products or services. As such, this definition tells us little about what we are seeking when we foster competition. Economic warfare might possibly be waged with physical rather than economic weapons. That clearly would be undesirable. Restrictive agreements could be employed. The Sherman Act specifically disallows these.[135]

When we seek to *foster* competition what we desire is the employment of competitive means which attract the consumer from one competitor to another because the consumer prefers some aspect of the product or service. Our aim, then, is not competition as such, but the improved products and services and lower prices which are presumed to result from a competitive market.

Obviously not all competitive means can be characterized as either "wholesome" or "restrictive and coercive." Advertising, at least at some point, may attract the consumer by neither improving what he receives nor lowering its price, but it is not yet thought to be restrictive, coercive or unfair.[136] But for purposes

[134] "No corporations engaged in commerce shall acquire, directly or indirectly, the whole or any part of the stock or other share capital and no corporation subject to the jurisdiction of the Federal Trade Commission shall acquire the whole or any part of the assets of another corporation engaged also in commerce, where in any lines of commerce in any section of the country, the effect of such acquisition may be substantially to lessen competition, or to tend to create a monopoly." 15 U.S.C. § 18 (1964).

[135] "Every contract, combination in the form of trust or otherwise, or conspiracy, in restraint of trade or commerce among the several States, or with foreign nations, is declared to be illegal." 15 U.S.C. § 1 (1964).

[136] *But see* Address by Donald F. Turner, Federal Bar Association Briefing Conference on Federal Control of Advertising and Promotion, June 2, 1966; Address by Donald F. Turner, Advertising-Government Relations Conference, Feb. 8, 1967. For an analysis of recent network practices with regard to advertising rates, see Blake & Blum, *Television Rate Practices: A Case Study in the Failure of Social Control of Price Discrimination*, 74 Yale L. J. 1339 (1965).

of analyzing the ITT–ABC merger the fairly elementary scheme which I have outlined will suffice.

Competition among broadcasting stations and networks presents some rather unique features. For example, the various markets in which television stations compete are necessarily oligopolistic. Broadcasting signal interference places a physical limitation on the number of stations which can be broadcast in any given area. As a consequence the market of national networks is likewise oligopolistic.

Wholesome competition is, of course, most likely to thrive where there are a large number of competitors. If there is only one unregulated firm in a market—a monopoly—the benefits of competition will almost surely never materialize. For a monopoly, profit maximization in a given market will probably dictate higher prices and lower quality than would result from competition.[137] When there is only one firm in the market, naturally it will decide to maximize profits. That, simply stated, is why monopoly does not provide the benefits which competition does.

Oligopoly can, theoretically, provide the benefits of competition—but it is not likely to. When a few firms dominate a market it is relatively easy for one firm to predict the behavior of the others. Implicit understandings are facilitated and decisions can be made which more easily approximate those reached by a monopolist. Such decisions are what all firms strive for, because they truly maximize profits. It is only when the behavior of competitors is unpredictable that a firm must engage in true price and quality competition.

The television network market is confusing because we usually think of the viewer as the consumer and the program as the product. That is certainly the perspective of the regulator whose duty it is to see that the interest of the public—*i.e.*, the viewer—is served. But in an economic sense this is at best a shadow analysis. Whether or not, as McLuhan tells us, the medium is the message,[138] the true consumer is the advertiser, and the true product the viewer. The advertiser pays for the

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[137] Bach, Economics 458–60 (1960).

[138] McLuhan, Understanding Media: The Extensions of Man 7 (1965). And, most recently, The Medium is the Massage [sic] (1967).

viewers which the network can deliver. The program is but the vehicle for delivering viewers—potential purchasers of the advertiser's wares.

2. *The Merger Will Not Enhance Competition*

The real and shadow markets were hopelessly confused by the parties during the hearing and continue to be confused by the majority in its opinion. Suppose wholesome competition were to be enhanced by the merger. Presumably either lower prices or an improved product for the advertisers would result.

There is some price competition in the television network market at the present time. The prime competitor in this respect is ABC. There is evidence that ABC charges advertisers a 29 percent lower Class A hourly rate than do the other two networks.[139] The reason ABC charges less, of course, is that its programs reach fewer homes.[140] But advertisers currently have a choice between reaching fewer homes at a lower price or more homes at a higher price. If ABC were able to reach more viewers as a result of the majority's approval of this merger, the prospects are that its behavior would more nearly approximate that of the other two networks. Because the market is almost as extreme an oligopoly as one can imagine, it is highly unlikely that the price to the advertisers will decline after the merger. It is rather more likely that what little price competition as does presently exist will disappear.

The other possible benefit from enhanced competition is an improved product for the consumer, that is, the advertiser. An improved product in this case is limited almost entirely to more viewers.[141] Advertisers now have the larger audiences available to them on the other networks. The merger thus could not provide them with something not now available in the market. But prime time television is a scarce commodity, so presumably

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[139] ABC—Past, Present and Proposed at 17, filed by the parties on March 31, 1966, as Exhibit No. 1–3, Attachment H.

[140] See Part IV, B., *infra*.

[141] Conceivably the product might be improved by delivering more attentive viewers, viewers with greater disposable incomes, or viewers of higher socio-educational level. But because most television advertisers seek a mass audience of potential purchasers for family, low-priced, repeat-purchase, universally consumed, packaged consumer products the total audience delivered by the network is almost surely the best measure of the "product."

there would be a demand for the larger number of viewers enhanced "competition" supposedly would bring. Still, because the market is oligopolistic it is not likely that there would be any real gain to advertisers. If ABC were able to deliver more viewers, it would probably do so at a higher price with no salutary price cut resulting from the so-called "competition."

What will result from the merger? What was really meant at the hearing by the talk of enhanced "competition"? In this case "competition," roughly translated, simply means higher profits for ABC. But "where economies resulting from a merger create a degree of market power which seems likely to result in the economies being translated into higher profits rather than lower prices, they cannot be viewed as benefiting competition."[142] Thus, even if one accepts the apparent view of the majority that the "public interest" in broadcasting is advanced by better service to advertisers, it is not at all clear that advertisers will be better served.

The shadow market—supplying programs to viewers—was repeatedly confused with the genuine "market" in which competition can be discussed in meaningful terms. The usual economic analysis does not apply to this shadow market, because the marginal cost to the viewer of any given show is virtually zero. The viewer expresses only a "yes" or "no" rather than a quantitative measure of his desire for the product. And a "yes" costs no money. This distortion of the viewing market probably lies at the heart of the problem of program quality. Those viewers who might be willing to pay for quality programming have no more voice in the marketplace than the viewers who are relatively indifferent to quality.

In examining this market, there are at least two ways of defining the public interest. One might strive simply to please the most people, with no concern either for aesthetic quality or for the intensity of viewer's feelings. The market is suited to this determination, and we might strive only to make the market attain that goal more completely. Alternatively, we could strive for a goal of "better" programming, if we could define a decent standard by which to measure program quality. The majority

[142] Address by Robert A. Hammond, National Industrial Conference Board, Conference on Antitrust in an Expanding Economy, March 4, 1965.

does not differentiate between these two goals. The merger, I am afraid, is in fact irrelevant to the attainment of either goal.

If ABC were truly unable to obtain the type of programming which most people enjoy, we might conclude that the merger would aid ABC in finding such programs and hence serve the first of our possible goals. But the record is clear that ABC suffers no handicap whatsoever in this respect. ABC officials testified that ABC pays as much for programming of all kinds as do the other networks.[143] There is no substantial evidence that the type of programs which ABC schedules are appreciably different from those of the other networks. And finally, in those markets where ABC has equal facilities, its programming is just as popular as that of the other networks.[144]

There is some indication that what was intended by "making ABC more competitive" was "improving" its programming in some undefined way. Again, however, there is simply no evidence, and no reason to believe, that a merger could accomplish this.

ABC already has a reputation as the innovator among the three networks. ABC's President Goldenson provided one man's explanation of the reasons why at the hearing:

> "We have tried to take more chances in order to do better than they [CBS and NBC] do. I think we probably have to take more chances, and I think we always have. I think in the industry we have been known as the experimenter in trying new things. We have had to try new things in order to get higher ratings in the 80 markets where we do compete, and I think we have tried harder. . . . That doesn't mean CBS and NBC don't try. They are trying all of the time, but I think we have to do even more." [145]

Indeed Goldenson cited ABC's current *Stage 67* as an example of such innovation, and described it as "one of the most ambitious projects ever undertaken by any network. . . ." [146]

This is the only evidence indicating any ways in which ABC's

[143] Record 266.

[144] Record 206. See Part IV. A., *infra*.

[145] Record 253–54.

[146] Record 99.

programming differs significantly from that of the other networks. Insofar as it is true it defeats the argument of the parties. It is very difficult to predict the consequences of alternative industry structuring. But it is a reasonably good guess that if ABC were to become structurally more like the other two networks, its programming behavior would even more nearly approximate theirs—if the claimed differences do exist today. It therefore follows from the only record evidence before us that the "benefits" seen to flow from the merger by the parties and majority (a "stronger" ABC) will tend to *reduce* the quantity of innovation and quality programming otherwise available to the public.

Thus, whether one's goal be more programming popular with the public, or a higher quality of programming, there is not the least reason to believe that the proposed merger will bring about that result.

3. *The Merger May Seriously Impair Competition*

A much more significant question, and one to which the majority pays almost no attention, is the potential effect of the merger on future entry into the network business. Dr. Saulnier, the economist who testified at the hearing on behalf of ITT, said:

> "I think competition is enhanced here where you have a movement toward a parity among the parties. Parity among parties competing in the market may mean parity among a relatively large number of small units or it may mean parity of size among a smaller number of larger units." [147]

Dr. Saulnier's argument is echoed in the opinion of the majority:

> "We should seek in our regulatory activities to provide the conditions and permit the business activities that will afford free and effective competition which, while it does not require absolute equality among competitors, cannot be achieved by smaller or weaker competitors unless in critical respects their competitive strength is

[147] Record 337.

> sufficiently comparable to that of the stronger industry members." [148]

These arguments are advanced as reasons for helping ABC reach competitive parity with the other two networks. As we have just seen, the reasoning is inappropriate to an analysis of the network market. ABC's competitive strength is fully comparable to that of the other networks in all respects except affiliates—and the merger will have virtually no effect on the number or strength of ABC's affiliates.

Rather than enhancing "competition" among the present three networks, the merger will have a serious deterrent effect on possible new entrants into the network market. If the erroneous arguments of Dr. Saulnier and the majority be accepted, deterrence to new entry is a foregone conclusion. ABC is now almost, though not quite, as large a broadcaster as NBC and CBS, no matter what criteria of measurement are employed. But any new network or program syndicator would be dwarfed by ABC as it now exists. If ABC's broadcasting leverage were to become greater yet, the disparity with that of any newcomer would also be greater, and in that measure the "parity," which Dr. Saulnier praised, would be lost.

The irony of the situation is that the reasoning of Dr. Saulnier and the majority, though starkly inadequate to sustain the illusory benefits which they see, does rather nicely explain the probable effect of the merger in deterring competition. It is relevant to recall that once upon a time there was a fourth television network, the Dumont Network. We do not know for certain the reasons for Dumont's demise. We can, however, pinpoint the year: 1953—shortly after the last time this Commission split over the "benefits" to competition from a television network's merger in approving the merger of Paramount with ABC.[149]

Lately there have been indications of interest from potential competitors in the network markets. Advertisers have, in effect, syndicated their own programs, thus assuming some of the func-

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[148] Majority opinion, *supra*.

[149] Paramount Television Prods., Inc. 17 FCC 264 (1953).

tions of a network.[150] A fourth national network plans to begin operation on a relatively modest scale.[151] And educational television, coming out of its infancy, seems to be manifesting signs of a spurt in growth that may soon present America with an educational network in fact as well as name.[152]

The proposed commercial networks must find sponsors. ITT at present does little advertising in the United States, but it is increasing its advertising budgets,[153] and does have a wide range of consumer products which it markets in foreign countries.[154] It is quite possible that ITT may wish to market consumer products in the United States in the near future.[155] With such a marketing campaign would come increased advertising; it would be very difficult for new networks to command this advertising if ITT were affiliated with ABC.[156]

A still more serious problem for new networks in their quest for sponsors will be the possibility of ABC's attracting advertisers through reciprocal dealing by ITT's other divisions. That

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[150] See Broadcasting, Oct. 17, 1966, p. 36.

[151] The Overmyer Network, named after its creator, Daniel H. Overmyer, is expected to broadcast eight hours a day and hopes to have one hundred affiliates by the time it begins operation in September of 1967. Wall St. Journal, July 13, 1966, p. 4, col. 2.

[152] See, *e.g.*, Carnegie Comm'n on Educ. Television, Public Television, A Program for Action (1967); Legal Brief and Comments of Ford Foundation, Establishment of domestic non-common carrier communications-satellite facilities by non-governmental entities, Docket No. 16495, FCC, March 2, 1966; President's Message on Health and Education 113 Cong. Rec. S2677, S2679 (daily ed. Feb. 2, 1967).

[153] In 1965 ITT spent $523,135 on United States television advertising. It estimated 1966 expenditures for this item at $1,671,881. Exhibit 3, submitted by ITT on Sept. 7, 1966.

[154] For example, ITT makes radios, television sets, phonographs, air conditioners, refrigerators and freezers. See Exhibit 1, submitted by ITT on Sept. 7, 1966.

[155] The President of ITT admitted in the hearing to a concern that the average American had not heard of ITT and a hope that the affiliation with ABC would help bring popular recognition to ITT. Record 542. This is perhaps some indication that ITT has plans to expand its consumer market in the United States, for popular recognition in America is hardly necessary for sale of electrical equipment abroad.

[156] None of RCA's television advertising currently appears on any network other than RCA-owned NBC. Sponsor, Sept. 19, 1966, p. 22. This may be an indication of the amount of ITT advertising that could be expected to appear on others' networks.

is, potential suppliers of ITT's divisions might consider advertising placed with ABC an especially good means to "get the message" to ITT. We do not have the information from which to calculate the potential for reciprocal dealing by ITT. But one of ITT's subsidiaries alone, Avis Rent-A-Car, could have a serious impact on advertising available to a fourth network if ITT wished to engage in reciprocity. Besides being a large purchaser of automobiles, Avis is probably a very attractive purchaser from the manufacturers' standpoint because of the extensive free exposure it gives to automobiles. In the third quarter for 1966, the Ford Motor Company Dealers were the 18th largest television advertiser, General Motors Dealers were the 28th, Chrysler Dealers were 51st, the Ford Motor Company was the 67th, General Motors was the 76th and American Motors Dealers were the 84th.[157] Should Avis by reciprocal dealing be able to foreclose a fourth network from dealing with one or more of these, the impact on that fourth network would be very serious. Since the largest rent-a-car service, Hertz, has recently merged with RCA, the owner of another network, the effect on new networks' automobile advertising is potentially disastrous.

It is true that, to quote from the majority's opinion, "there is an unqualified representation that neither company engages in . . . [reciprocity] and that the policy of ITT is against any such practice."[158] Are these assurances adequate? Here is what a Federal District Court said recently: "it might be questioned whether it is realistic to expect a corporation possessing a competitive advantage not to attempt to reap the potential benefits. . . . The question of whether reciprocity will be used seems self-answering."[159] In any case, analysis of the impact of a merger must deal with possibilities rather than accomplished facts. If enforcement of the antitrust laws awaited the admission of businessmen that they were not going to comply, the laws would have been a dead letter long ago.

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[157] Broadcasting, Dec. 12, 1966, pp. 38, 40.

[158] Majority opinion, *supra*.

[159] United States v. General Dynamics Corp., 258 F. Supp. 36 (S.D.N.Y. 1966).

One of the hopes for future entrants into the network market is the potential decreased cost of transmission brought about by advances in technology. Real possibilities in this area are presented by recent developments in satellites and by current experiments in laser transmission. Improved low-cost UHF technology may ease the path for new entrants. ITT is one of the leading electronics firms in the world. It is the second largest stockholder in Comsat, and one of the leading firms in satellite ground station technology. It has done a considerable amount of work in UHF technology. One of the other leading firms in this area, RCA, also owns a network and ABC's President noted that RCA would not be likely to help ABC with its technical problems.[160] While separate from ABC, there is a clear incentive for ITT to find ways of decreasing costs of television technology for sale to all networks. If ITT is merged with ABC the economic incentives become more ambivalent. ABC wishes to lower its costs, but if costs become so low that entry into networking is encouraged ABC's position as the third network is endangered. Owning the ABC network and stations, it is unlikely ITT will develop new technology which threatens the present systems of networking and broadcast transmission.

A similar problem is imposed by the merging of one of the four international common carriers with a network using the carriers' services. This Commission must pass on the tariffs which the carriers submit. One carrier, RCA, is now combined with a network, NBC, and the record indicates that NBC objects less often to RCA tariffs than do the other networks.[161] Once ITT and ABC merge, ABC's incentive to press for lower carrier charges likewise will be eliminated or diminished—especially if the smaller charges would lower barriers to entry to the network market. On other issues, such as whether Comsat should sell service directly to the networks or should serve only as a "carriers' carrier," the interests of a separate ITT and ABC might very well diverge, and again the interests of a fledgling fourth network would be the real loser from ABC's

[160] Record 277.
[161] Record 182–84.

merger into silent acquiescence. Again no harm, and perhaps a great deal of good, can come by keeping ABC and ITT, separate.

Furthermore, the merger removes ITT as a potential competitor for the three existing networks. ITT, were it not permitted to enter the broadcasting industry by merging a presently viable network out of its independent existence, is an economic power that might very well have created a new force in American broadcasting. Now that possibility is forever lost. The record is clear that ITT talked to owners of individual stations about the possibility of buying broadcast properties, and talked with another network than ABC.[162] It firmed up the agreement with ABC.[163] While this is not strong evidence that ITT might have gone into networking on its own, at the very least it suggests the desirability of obtaining more information on ITT's plans in this regard.[164]

Especially significant is ITT's manifested interest in cable television (CATV) systems. The company has invested approximately $7,000,000 in CATV, 3.5 percent of the total capital presently invested in the CATV industry.[165] That ITT had ambitious plans in the CATV area which it did not reveal to this Commission is made plain by Mr. Turner's letter of December 20, 1966. He says of ITT,

> "Commencing in 1965 it [ITT] invested almost $7 million in construction and ownership of CATV sys-

[162] ITT's President testified.

"We did hold some conversations from time to time in a general way, with people who purported to think we should get into stations, and that sort of thing, but we never got anywhere with that."

Record 592. Compare with this the assessment of the Assistant Attorney General (Antitrust), who had access to ITT internal documents which this Commission did not examine:

"Our investigation indicates that ITT, which characterizes itself as one of the world's leading suppliers of electronics and telecommunications products and services, has been seriously interested in entering the domestic broadcasting business. It considered the possibility of acquiring one or another of the national networks, various television station groups, and individual stations. ITT's entry into broadcasting by station ownership, an alternative to the ABC acquisition, would have given it a base for subsequent independent entry into the network business."

Letter from Donald F. Turner to Chairman Rosel H. Hyde, Dec. 20, 1966.

[163] Record 549.

[164] See note 162, *supra*.

[165] Record 121.

> tems. Among the possibilities contemplated were expansion of this investment, pay-TV operations, and creation of a network linking whole areas of local CATV's franchises. ITT's interest in these possibilities and efforts in this field apparently ceased after it agreed on merger with ABC—a sequence which indicates a possible cause-and-effect relationship." [166]

The contention in the majority's opinion that this information with regard to ITT's interest in CATV along with other revelations "are and have been known to the Commission and have been the subject of careful consideration" [167] is simply false. The only evidence of record available to this Commission regarding ITT's interest in CATV is the dollar figure of the current investment.[168] And this figure was presented to show how minimal was ITT's investment—Mr. Geneen spoke of "some very small CATV experimental operations." [169] Nothing was said about the then-abandoned contemplation of increased investment and a possible grid to link local systems into regional or national networks. The potential for CATV as both a transmitter and originator of network-type programs is very great. The exact extent depends largely on action which Congress and this Commission will take in the next year or so. It is clear, however, that this merger has reduced the incentive to ITT to provide CATV service which will compete with the major networks.

The cumulative effect of all these deterrents to further competition in television networking is very substantial. Whether or not it rises to the level of a violation of Section 7 of the Clayton Act should not be determinative when the "public interest" is evaluated in this forum. The very least that can be said is that such deterrents to competition do rather effectively refute the majority's conclusion that the merger will "serve competition."

The majority appears to have been concerned less with increasing competition in networking than in finding a rationale

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[166] Letter from Donald F. Turner to Chairman Rosel H. Hyde, Dec. 20, 1966.

[167] Majority opinion, *supra*.

[168] Record 121–22.

[169] Record 516.

for justifying the merger. This is made quite clear by a glaring inconsistency in the majority opinion. In explaining why the revelations of the Antitrust Division can be ignored, language is cited holding that "encouragement of competition as such has not been considered the single or controlling reliance for safeguarding the public interest." [170] But in justifying the merger, the majority professes its conviction that "the merger proposed here would enhance, rather than lessen, competition . . ." [171] The majority can have it one way or another but not both. If stifling of competition can be ignored, enhancement of competition cannot at the same time be the merger's justification.

IV. ITT and ABC Failed To Demonstrate That There Are Any Reasons To Recommend the Merger

There is total agreement that ABC is the weakest of the three major networks. It makes the least money and attracts the smallest audience. There is also little doubt that ITT has financial resources to devote to ABC if ABC should at some time need extra capital, and if ITT should choose to oblige.

There is, however, serious doubt (1) as to whether the public is in any way disadvantaged by the current financial condition of ABC, (2) as to whether ABC cannot obtain any capital it may need without merging with ITT, and (3) as to whether ITT will, in fact, make any additional capital available to ABC. On these, as on most other issues, the majority opinion is singularly unconvincing.

A. ABC's competitive disadvantage arises almost solely from its lack of equal access to affiliates—a matter beyond ITT's power to affect

The television network market clearly has the greatest social impact of any market within broadcasting. For that reason I will use it as the principal example for purposes of analysis.

[170] Federal Communications Comm'n v. RCA Communications, 346 U.S. 86, 93 (1953). Majority opinion, *supra*.

[171] Majority opinion, *supra*.

The part of the electromagnetic spectrum available for very high frequency (VHF) television broadcasting is severely limited. If sufficiently separated physically, so that interference is no problem, more than one station can, of course, broadcast on any given channel. But the demand for VHF stations, at least in the larger markets, is much greater than the supply. As a consequence, although some markets have three, or even six, VHF channels, many markets have two and sometimes only one. In two-station markets the stations usually affiliate with NBC and CBS for reasons which are mainly historical and psychological. These two networks were in existence first, present popular programming, make greater profits than ABC, and seldom do significantly less well than ABC in the national ratings. For similar reasons, in the three- or four-station markets, NBC and CBS usually attract the affiliates with superior facilities. All parties, in effect, agree that the traditional affiliations of VHF stations will not be altered significantly by the proposed merger.[172]

ABC's competitive disadvantage, at least for the past six years, has been directly related to its lack of equal access to affiliates and has had nothing to do with inferior programming, lack of color programs, or anything else which the expenditure of greater funds could cure.[173] In recent years ABC has done remarkably well by all available standards for measuring audience popularity. It is true that the standard ratings systems usually have shown ABC last for the past six years.[174] But because ABC, by reason of its disadvantage in primary affiliates, beams a picture to fewer television sets than the other networks, ABC ratings equal to, or slightly less than, those of the other networks mean that ABC actually reaches a greater percentage of its potential audience than the other networks.

Verification of the fact that ABC is actually as popular as the other networks is easily available but has been ignored by the

[172] See discussion, *infra*.

[173] The impact of lack of equal access to affiliates is discussed *infra*. That ABC's programming is in no sense inferior to that of CBS and NBS is documented *supra*. And, there is uncontradicted testimony that both ABC and CBS "have prior orders in for [color equipment] . . . As fast as they will deliver it, we will convert." Record 212.

[174] See, *e.g.*, Broadcasting, Jan. 30, 1967, p. 60.

majority. Nielsen Competitive Market Ratings provide ratings for 30 markets in which ABC's affiliates are technically equal to those of the other two major networks. In these markets, the only ones where ABC has a fair chance to compete, ABC was last in only five months out of nineteen selected since November 1960. ABC ranked first in seven of the nineteen months and the average of its monthly rank was as high as CBS and higher than NBC.[175] This competitive margin has not been great enough to attract affiliates away from NBC, but its very existence exposes as foolish the notion that ABC's overall competitive disadvantage is attributable to anything other than a lack of affiliates with competitive facilities.

Testimony of ABC officials that ABC pays as much as the other networks for programs of all sorts, including news and public affairs, merely confirms that ABC's need is for affiliates, not for more expensive programs with which to supply them.[176]

There is little or nothing that an ITT could contribute to improving ABC's affiliate position. About the strongest statement in the hearing record as to the relationship of the merger to the number and quality of ABC's affiliates is Goldenson's:

> "If the affiliates know that through a long-range basis you are going to be consistent in your planning, so that you are going to build solidly over a period of five years, the affiliates will have one outlook as compared with an organization that might be volatile based on ratings at nighttime, and therefore they will be certainly more independent in associating with ABC than they otherwise would." [177]

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[175] See Nielsen Competitive Market Ratings for Nov. 1960, Feb., April, Nov., 1961, Feb., April, Nov., 1962, Feb., April, Nov., 1963, Feb., April, Nov., 1964, submitted by ABC to the Federal Communications Commission, as Exhibit A accompanying Letter from Mortimer Weinbach to Chairman E. William Henry, May 12, 1964. See also Nielsen Competitive Market Ratings for Nov., 1964, Feb., April, Nov., 1965, Feb., April, Sept., 1966. See also testimony of counsel for ABC. Record 206.

[176] Record 266. With regard to news shows, the President of ABC said, "Today I think competitively we have as good a news team as CBS and NBC; it will take a little longer to establish them because of the habit factor, but eventually they will be competitive." Record 236.

[177] Record 226.

"More independence" of affiliates scarcely suggests significant change. Goldenson himself acknowledged that even when CBS and NBC have occasionally outdistanced one another it did not "lead to any substantial shifting of affiliation," and in a candid moment admitted that CBS and NBC "have built these loyalties that I don't think we can shake to any great extent.[178]

In fact, all parties had grave doubts that this merger could help ABC improve in affiliates. The most that ITT President Geneen could be brought to say was that, "perhaps you will gain affiliates." [179] And even that vague hope was quickly shattered with the concession that, "I don't know how we will get all of our viewer coverage and this is something that we are going to have to work on. . . ." [180] When Commissioner Cox noted that the basis of ABC's competitive problem "is one of access to equal and competitive facilities," Mr. Geneen repeated, "That is correct, Commissioner, and I would add only one thing: There isn't any short-time answer to the solution to that." [181] The exchange continued:

> "Commissioner Cox: In other words, that means I take it, that even if your assurance of added support . . . is achieved short-range, you don't expect that, in and of itself, to make ABC a fully competitive third network?
>
> "Mr. Geneen: No." [182]

Commissioner Lee picked up the matter of ABC's competitive position in all-VHF markets when questioning ABC counsel McKenna:

> "Commissioner Lee: One of the problems that ABC . . . has is the 17 markets in the top 100 [markets] where you have two VHF facilities. . . . How is this merger going to cure that?
>
> "Mr. McKenna: I don't know that the merger is going to cure that." [183]

[178] Record 273.
[179] Record 510.
[180] *Ibid.*
[181] Record 536-37.
[182] Record 537.
[183] Record 205.

Nor, of course, will the merger affect in any way the power or coverage of the present ABC affiliates.

The record evidence that ABC can acquire more affiliates as a result of the merger is at best weak, and I think nonexistent. It is very unlikely that the merger could solve ABC's problem in a two-VHF station market. It will not increase the market reached by the present affiliates of ABC. What will improve ABC's affiliate position—short of major surgery by the Commission or Congress? Commissioner Cox and Mr. McKenna explored the issue.

> "Commissioner Cox: . . . Isn't the long-range development of UHF stations, whether they are to be affiliated with ABC or the other networks, . . . going to depend upon the impact of the All-Channel law, which will bring eventually a system in which all sets are capable of receiving those signals?
>
> "Mr. McKenna: I think that is probably the major factor, Commissioner Cox." [184]

In short, ABC's most realistic hope for additional affiliates is additional United States television stations. As the VHF frequencies are full, additional stations will have to be in the UHF band. UHF stations will develop only as there are receivers available to pick up their signal. Since the passage of the All-Channel Receivers Act [185] and the FCC's implementation, all television set manufacturers are required to include a UHF receiving capability in their sets. As old VHF-only sets are replaced, more and more American homes are being equipped with sets capable of receiving UHF stations. The switch to color has accelerated this replacement, as all new color sets are

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[184] Record 209.

[185] In 1962 Congress amended the Communications Act to give the Commission "authority to require that apparatus designed to receive television pictures broadcast simultaneously with sound be capable of adequately receiving all frequencies allocated by the Commission to television broadcasting. . . ." 47 U.S.C. § 303(s) (1964). The Commission utilized this authority to require such reception capability in new television sets. 47 C. F. R. § 15.65 (1966). All-channel sets are capable of receiving that part of the UHF spectrum allocated to television (the "UHF stations"), and thereby increase channel capacity five or six times. It has been estimated that will take eight to ten years for enough set replacement to occur to make UHF receiving capability virtually universal.

also UHF sets. As UHF sets spread across the country, more economically viable UHF stations will come into operation in markets that are now one, two or three VHF station markets. Such new UHF stations are potential affiliates for ABC—or other new networks—and potential competition for CBS and NBC. Obviously, (1) the merger can do nothing to affect this trend, and (2) because of it ABC stands to reap increasing competitive advantage in the years to come without the merger.

Whether or not the Commission or Congress should concern itself with helping ABC—and other latecomers to the network business—achieve affiliate equality with CBS and NBC is really a separate, if meritorious, issue. All that is before us now is whether the record of this hearing can sustain a finding that ITT has within its power the ability to make ABC's affiliates equal to those of CBS and NBC if it desired to do so. Commissioner Cox rather neatly summarized the record on this point in an exchange with Mr. Goldenson: "I don't see how getting money from ITT is going to solve that." [186] Neither do I.

Of course, it is in no sense clear that the public interest requires, or would be served by, precise equality of affiliate outlets for each network. There is at least some evidence in this record to the contrary, because ABC as it presently exists claims to be more innovative than the other networks.[187] The Commission majority, however, has concluded that the merger is warranted because the public interest requires a "competitively" stronger ABC—even though all concede that ABC can be meaningfully strengthened only by giving it more equal affiliates.[188] If the public interest does require greater equality of affiliates between the networks, there are far better ways to achieve that goal than by encouraging this merger, with its attendant detrimental impact on the public interest.

If the Commission is truly and responsibly concerned with making ABC stronger financially, it has it within its power to

[186] Record 252.

[187] See text at note 145, *supra*.

[188] The President of ABC said "My statement to the Commission . . . is now, if you give us equal facilities in the market place, we will deliver you a competitive network." Record 229.

do just that. Why not get to the heart of the problem? The Commission has even considered some responsive remedies in the past.

We could reconsider the proposal that the amount of programming a station can take from a given network be limited.[189] This would not make the "affiliates" equal, but would achieve the same effect by giving each network equal opportunity for exposure over the same outlets. The suggestion was made 13 years ago by Commissioner Hennock when ABC was merging with Paramount in order to achieve "competitive equality." [190] It is no less possible today.

The Commission could consider the suggestions regarding FCC regulation of network affiliation practices.[191] These recommendations would not solve ABC's problem, but would at least give the FCC more information with which to work toward a solution.

The whole frustrating history of "de-intermixture" and "drop-ins" and the original promotion of UHF could be reviewed. There were at least veiled references to these earlier proceedings, and their impact on ABC, during the hearing.[192] The Commission had the opportunity to establish more three-station markets, and to establish more all-VHF markets. Such a course would have substantially eliminated the problem the majority today believes will be resolved by yet another ABC merger. It is not too late to reconsider this form of remedy if the Commission honestly believes the problem is sufficiently serious to warrant meaningful solution.

Finally, and perhaps most effective, the Commission could simply promulgate rules designed to create equality of affiliates. We could limit the number of affiliates available to any one network, or the number of viewers in all its affiliates' markets. We could limit the number of VHF affiliates. We could take affirmative action to reallocate affiliates from one network to another,

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[189] See Notice of Proposed Rule Making, Docket No. 9807, FCC, Oct. 5, 1950.

[190] Paramount Television Prods., Inc. 17 FCC 264, 378–79 (1953).

[191] Network Study Staff to the FCC Network Study Committee, Report on Network Broadcasting 207–78, 638–41, 657–58 (1957) [reprinted as H.R. Rep. No. 1297, 85th Cong. 2d Sess. (1957)].

[192] See, *e.g.*, Record 279.

to strike a more equal balance of VHF-UHF competition in all markets. These solutions would have the added advantage of serving as precedent and incentive for the fourth, and someday fifth networks. They could be modified as conditions warranted.

In short, even if the majority were correct in holding that the public interest requires a more competitive ABC, and even if the merger would enable ABC to improve its affiliate position, the Commission has within its power solutions for the ABC affiliate problem that are (a) dramatically more effective, and (b) far less harmful to the public interest than this proposed merger with ITT.

B. ABC IS FULLY CAPABLE OF FINANCING ALL ITS CAPITAL NEEDS WITHOUT A MERGER

Much was made throughout the hearing of the unsupported generalization that the merger would somehow enable ABC to undertake plans for expansion. ABC does have very ambitious plans for building new studio complexes, for converting to color transmission, and for innovative programming. But there is no substantial evidence that any of these plans are dependent upon the merger. There is no doubt that ITT is financially stronger than ABC. It is also stronger than CBS, the leading network by most standard measurements. But ITT's financial strength, which the majority is able to detail, is quite irrelevant. For there is no showing that ABC is not already financially strong enough to fulfill all future plans.

ABC has had plans for all-color news and an expanded half-hour evening news show by January 1967, a late-night all-color Joey Bishop show, daytime color programming, and a series on the African continent in April 1967, with shows on other continents to follow.[193]

Color conversion has been a major undertaking for some time. Mr. Goldenson "told [the ABC] . . . Board about nine months ago or a year ago . . . [that ABC] would have to spend between $10 million and $15 million to convert to color. . . . "[194]

[193] Record 212, 225.

[194] Record 212.

But color conversion is not the only investment ABC has long contemplated. ABC President Goldenson testified the network had already expanded its news budget from $3½ million to $26 million annually, planned on $30 million in 1967, and $40 million in 1968. Sports coverage, which had already reached $20 million for 1966, was budgeted for $24 million in 1967, and $38 million in 1968. The costs of entertainment shows are now running about $140 million annually, and ABC is anticipating an increase of about 10 percent annually.[195]

Now why is ABC making such expansionist plans? Is it to stay competitive, or to better serve the public interest? Partially, one would hope. But it is also, as we might suspect, good business. And that is what these exchanges between Commissioner Cox and Mr. Goldenson would seem to indicate regarding entertainment, sports, news, color conversion and new studios.

> "Mr. Goldenson: . . . there is an increase each year also in programming of about 10 percent. This has been brought about increasingly so, because of color in entertainment. . . . I am assuming that conditions will continue to improve and, therefore, we can realize it back." [196]
>
> "Mr. Goldenson: In connection with the sports side, I think that we, through sponsorship, will be able to realize that money back." [197]
>
> "Commissioner Cox: Do you anticipate that this expanded and improved news and public affairs program service, while it will probably still continue to be a net loss operation, will recover for you a higher percentage of those costs than you are now getting?
>
> "Mr. Goldenson: In time we think that will be true; yes.
>
> Commissioner Cox: In other words, you think while it will also serve the public, this is a step in the best interest of ABC and its stockholders?
>
> Mr. Goldenson: Yes, as well as the public.

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[195] Record 112, 113, 214–15, 265.
[196] Record 574.
[197] Record 572.

Commissioner Cox: And it is a good business investment?

Mr. Goldenson: Yes.

Commissioner Cox: Do you think the color changes are good business investments?

Mr. Goldenson: We do.

Commissioner Cox: Do you think the projected studio complexes will be good income-producing investments?

Mr. Goldenson: Right. We couldn't serve the public unless we did all of these things." [198]

"Mr. Goldenson: . . . I think you only have at the present time roughly 12 percent of your TV homes with color. . . . So you are not able to recover your full color costs as yet. Ultimately, I would think by 1968, you will." [199]

A close analysis of ABC's financial condition reveals what one would expect of a company contemplating such expansion plans as good business investments before the proposed merger: ABC is fully able to finance all foreseeable expenditures.[200]

The record with regard to the amount of ABC's contemplated expenditures is replete with what most generously can be described as ambiguities. At one point in the hearing, in response to a request for an estimate of financing requirements for the next eighteen months or two years, the president of ABC said that "I would think that another $90 million dollars would be necessary." [201] At another point, however, he said that "Over the course of the next three years . . . we will probably be called upon to spend approximately $70 million." [202] There is a rather substantial disparity in these two estimates which might lead one to believe them guesses or fabrications. But let us pursue the financial plans further. After admitting that ABC could borrow $6 million more, and that revenues could finance part of the $70 million requirement, the ABC Presi-

[198] Record 256–57.

[199] Record 272.

[200] In fact ABC increased its quarterly dividend in the third quarter of 1965 from thirty-five cents to forty cents a share. 1965 ABC Ann. Rep. 2. See discussion, *infra*.

[201] Record 213.

[202] Record 567.

dent said, "I think that we very well might need $50 million [from ITT]." [203]

Presumably this $50 million figure was derived from an estimate that ABC could only take $14 million from earnings over the next three years, to add to the $6 million it could borrow, to finance its planned expenditures of $70 million. This estimate, however, is entirely unrealistic.

ABC earned $15.6 million in 1965, paying dividends of $7 million and placing the surplus of $8.6 million in retained earnings. This brought ABC's retained earnings as of the end of 1965 to $62 million.[204] For the first nine months of 1966, ABC's operating revenue has increased 12 percent.[205] This is consistent with the trend over the past five years, during which the operating revenue has gone from $9.9 million in 1961 to $15.7 million in 1965.[206] Should the increase hold for the final quarter of 1966, the operating revenue for this year would be over $17 million. It seems incredible, in view of this trend, to think that operating revenue will not increase still further in future years. But let us assume that it does not.

If ABC were to continue to pay the same $7 million dividend for the next three years—not an unreasonable restraint for a company undergoing rapid expansion of facilities—it would have a surplus of $40 million for the four year period, 1966–69. This very conservative figure contrasts rather sharply with the $14 million estimated by the ABC President.

ABC is limited by current debt instruments to borrow 50 percent of its assets. Again there are ambiguities in the record as to how much ABC can borrow. ABC recently negotiated a loan of $25 million. At the time of the hearing it had received $12.5 million. It expected to receive the remainder before the end of the year.[207] This would increase ABC's debt to $92.5 mil-

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[203] Record 570.

[204] 1965 ABC Ann. Rep. 26.

[205] Broadcasting, Oct. 24, 1966, p. 80.

[206] ABC—Past, Present and Proposed, app. at ii. filed by the parties on March 31, 1966 as Exhibit No. 1–3, Attachment H. ABC's performance for 1966 showed an increase of 13.5% (from $15.7 million to $17.9 million) in operating earnings and an increase of 16% (from $15.6 million to $18 million) in total earnings. Broadcasting, Mar. 6, 1967, p. 68.

[207] Record 213.

lion, but the record is quite unclear as to how much more could be borrowed. The President of ABC said that the company could only borrow $6 million more. But he also said that the value of assets, only 50 percent of which could be borrowed, was $200 milion.[208] It was not clear whether the $12.5 million to be borrowed in 1966 was included in the $200 million. Even assuming that it was, current indebtedness of $92.5 million would allow additional borrowing of $7.5 million before 50 percent of $200 million would be reached.

Even if ABC were now within $6 million of its debt ceiling, the conclusion that it can only borrow that much more money to finance its expansion is ridiculous, yet that is the very conclusion which the parties tried to give and the majority seems to accept. That $6 million itself, once borrowed, would presumably become assets and thus allow additional borrowing of $3 million and then $1.5 million more and so on. And the very conservative estimate of $40 million in surplus to be accumulated from 1966 through 1969 will become assets and thus allow additional borrowing of $20 million plus $10 million and so on.[209]

It should be clear that, giving ABC the benefit of the doubt on every point, there is no basis whatsoever for concluding that the company could not finance its current needs for $70 or even $90 million over the next three years entirely from earnings and additional borrowing. Should earnings increase at the same rate over the next three years that they have over the last five, ABC could almost finance all its needs from retained earnings alone.[210]

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[208] Record 567.

[209] If borrowing is limited to fifty percent of the value of net assets, then this analysis is faulty. In that case all increases in debt would offset the consequent increases in gross assets so that net assets would remain constant. But a lending institution might rationally decide to limit borrowing of its creditors to fifty percent of gross assets or of net assets. This simply further emphasizes the deficiency of the record in this case, for we have no idea of the definition of "assets" which limits ABC's further borrowing.

[210] The average rate of increase over the past five years has been 12.6 percent. At that rate earnings would be $17.5 million in 1966, $19.7 million in 1967, $22.2 million in 1968, and $25 million in 1969. After dividends of $7 million per year, this would leave a total of $56 million dollars out of the profits of the company which would be used for the contemplated $70 million in expenditures. See also note 200, *supra*.

Additionally, of course, ABC could finance its plans by issuing additional common stock. When asked about this possibility at the hearing, the ABC President replied that it would be "highly undesirable . . . from our standpoint . . . [because] it would be a dilution of our stock." [211] It is difficult to see why such a stock issue would be any more a dilution of the stock than is the merger with ITT. In both cases the stockholders end up with a smaller portion of a larger company. It is, however, not difficult to decipher Mr. Goldenson's reasons for not favoring a large stock issue. Such a move would make stock available to the dissident stockholders who have been challenging ABC's management.[212]

C. ITT'S FINANCIAL COMMITMENTS TO ABC ARE ILLUSORY

With the true state of ABC's financial "needs" thus exposed, it becomes clear why ITT has assiduously avoided any but the most general and conditional financial commitments to ABC.

This excerpt from a letter from ITT's Geneen to ABC's Goldenson in March 1966 sums up ITT's "commitment":

> "You can be assured that I will *do my best* to see that the financial resources of ITT, *subject of course to approval* in specific instances by the ITT Board of Directors, are made available to ABC *if needed*." [213]

My point in showing that ITT does not want to, and has not, made any financial commitment to ABC is not to argue that ITT management is somehow immoral or unreasonable or incapable of serving the public interest. Not at all. It is only for purposes of evaluating the applicants' showing that the merger will serve the public interest by making ABC financially stronger.

Had there been a real commitment it would have been relatively easy for applicants to make such a showing. Mr. Goldenson could have testified as to his five year projected estimates

[211] Record 569.

[212] See Part II, *supra*.

[213] Letter from Harold S. Geneen to Leonard H. Goldenson, March 28, 1966. [Emphasis added.]

of revenue and expenditure and resulting budgets. He could then have testified as to his desires to provide public service programming beyond the reach of his budget—say, five additional public affairs specials during the 1967–68 season. He could have testified as to the net loss from such programming. Whereupon, ITT could have testified as to its commitment to pay for such programming wholly out of its own resources. Not. "I will do my best." Not. "subject to approval by the Board." Not, "if needed." ITT could have provided a flat bankable commitment of funds to a specific public interest purpose that would not have been possible for ABC but for the merger. Such a course of testimony would have at least provided "some evidence" of public benefit from the merger. As it is there is no evidence, and this is because ABC can meet all its needs by financing easily within its range.

The parties, in their own testimony, and in answer to Commissioners' questions, had numerous opportunities to clear up the matter of whether ITT did, in fact, have a specific commitment of funds to ABC for specific purposes. They failed to avail themselves of this opportunity.

Mr. Geneen referred to the "general commitment" of the ITT Board on numerous occasions. Here is a sample of one of his stronger statements:

> ". . . the Board has already committed itself in principle, in a general commitment, and I think that I can speak for the Board in saying that they consider that a complete commitment." [214]

It was, then, quite natural to question the only ITT Board member present as to the Board's understanding of its specific commitment to ABC.

> "Commissioner Cox: Have you [the ITT Board] been able to evaluate the soundness of these proposals [by ABC for proposed expenditures] *in broad outline?*
>
> Mr. McCone [John A. McCone, member of the Board, ITT]: No, we have not.

[214] Record 571. See also Record 559, 561, 562; Letter from Harold S. Geneen to Leonard H. Goldenson, March 28, 1966; Letter from Harold S. Geneen to Ben F. Waple, Secretary, FCC, July 25, 1966.

> Commissioner Cox: Or *orders of magnitude* of the sums mentioned by ABC as involved in these expenditures?
>
> Mr. McCone: No, sir.
>
> Commissioner Cox: Therefore, it has not been possible for the Directors of ITT at this point to reach a judgment which would serve as the basis of any representation to the Commission that it would, in fact, authorize such expenditures?
>
> Mr. McCone: I could not at this time tell you, sirs, the various projects that Mr. Goldenson referred to have been studied in detail by ITT Directors." [215]

The understanding of the ITT Board was shared by ABC's Goldenson.

At one point Mr. Goldenson had to be asked six times what was "ITT's specific commitment to ABC of financial assistance" [216] before providing anything other than the most evasive general answer. For the sixth time the question was repeated:

> "My question is, and I repeat it again, do you have a specific commitment from ITT, a specific commitment for a specific amount of money for a specific purpose? I think the answer is no."

At last Mr. Goldenson conceded, "The answer is no for a specific amount, yes." [217]

At the eleventh hour of the hearing Mr. Geneen was still uttering the generalization "Our real commitment is to establish and support them as being a viable completely competitive network in programming facilities." [218]

Not only did ITT fail to show how the public interest would be served if ITT funds were made available to ABC, it demonstrated rather conclusively that it did not want to make any commitment of funds to ABC, and would rather persistently resist efforts of Commissioners to elicit such a commitment.

The difficulty of finding a meaningful commitment in the record is actually highlighted in those very passages that are

215 Record 144. [Emphasis added.]
216 Record 298; and see Record 297–301.
217 Record 300; see also Record 280–81.
218 Record 566; see also Record 280–81.

said by the majority to constitute a "$50 million commitment" by ITT to ABC.

"Mr. Goldenson: Anything that we cannot realize through the form of loans or earnings up to $120 million that we outlined in a letter to Mr. Geneen, and he in turn cleared with his Board, would be available in backstopping us.

Commissioner Johnson: You indicated you planned to spend about $70 million during the next three years.

Mr. Goldenson: Yes.

Commissioner Johnson: Now, is it the case that only $6 million of that could be acquired by you without the assistance of ITT?

Mr. Goldenson: We are up to the full borrowing power, except for an additional $6 million.

. . .

Commissioner Johnson: Now, do you feel, therefore, that you have a commitment at this point from Mr. Geneen for, let us say, $64 million over the course of the next three years that would not otherwise have been available to you?

Mr. Goldenson: *If we require it.*

Commissioner Johnson: Do you think you will require it?

Mr. Goldenson: I don't think that we will require that much, no. We will be able to flush out a certain amount of money through our own earning power, over and above the dividend we are required to pay.

Commissioner Johnson: Do you think you would need $25 million?

Mr. Goldenson: I think that we very well might need $50 million.

Commissioner Johnson: Do you feel you have a commitment from Mr. Geneen for $50 million?

Mr. Goldenson: Yes, I do.

Commissioner Johnson: Mr. Geneen, do you feel that you have made a commitment to Mr. Goldenson of $50 million over the next three years?

Mr. Geneen: I certainly do, and I think we have made a *commitment in the sense that if he needs it and wants it*—I don't think the $120 million is the limit." [219]

This is but a portion of a substantial discussion, principally with Mr. Geneen.[220] And no matter how the question is approached, inevitably one is confronted with the realization that it will be ITT, of course, that will make the judgment as to what ABC's "needs," even "wants," may be. Moreover. ITT knows well what we have just demonstrated: absent a catastrophe, ABC will need no funds from ITT.

This was what the record contained when we received Mr. Turner's final letter. That letter revealed ITT's own estimate of ABC's need for funds in the next several years. Having received it, it is beyond my comprehension how the majority could have written the opinion which it has. Mr. Turner writes:

"ITT's estimates indicate that ABC's earnings growth rate over the next five years would be 16%. More importantly, it was anticipated that after capital expenditures and debt repayment, and assuming ABC continues in third place it would yield a cash flow approaching $100 million between 1966 and 1970, to be available for reinvestment *outside* the television business." [221]

ABC does not need capital. ITT does not intend to give it any. Indeed, like NBC's early support of RCA,[222] it appears that ITT is banking on the odds that ABC can be counted upon to provide ITT with some $100 million over the next five years—perhaps for further expansion-through-acquisition by ITT.

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[219] Record 568–70. [Emphasis added.]

[220] Record 557–75.

[221] Letter from Donald F. Turner to Chairman Rosel H. Hyde, Dec. 20, 1966.

[222] "The company [RCA] was ten years old [in 1930] and still a mere sales agency for GE and Westinghouse . . . when the roof fell in. Sarnoff needed money to keep RCA in business and NBC had to pull its weight in the boat and more. Its profits from 1931 on helped the parent company. . . . The Depression alone would have driven Sarnoff to unleash the advertisers, but the CBS performance [sales increased from $5 million in 1929 to $19 million in 1934] made it imperative for NBC to make the best possible showing on the balance sheet. And that way lay the 'wasteland.'"

Dreher, *How the Wasteland Began: The Early Days of Radio*, The Atlantic Monthly, February, 1967, pp. 53, 58.

V. Conclusion: The Merger Finds No Justification in the Opinion of the Majority

In conclusion: I dissent.

I believe the procedural and administrative process by which the Commission has resolved this case to be inadequate to the magnitude of the issues involved. I believe its inadequate and hasty handling of the case have—unnecessarily, and to some extent unjustifiably—created an *appearance* that has called into question the integrity of the Commission's process. I believe these procedures have also adversely affected, in fact, the *substance* of the Commission's evaluation of this case.

We have just passed upon the largest transfer of broadcast properties in the history of the industry. We have done it without adequate information, without adequate articulation of the relevant public interest standards, without subjecting the allegations and reasoning of the applicants to the scrutiny of adversary process. Under these circumstances it is not surprising to me that the opinion of the majority leaves much to be desired.

As a final summary and conclusion I wish to examine that opinion. Its analysis is necessary to my opinion anyway, and it provides a useful vehicle for reviewing the substantive and procedural chuck holes in the road we have just traveled together.

This case involves the largest transfer of broadcast properties in the history of the world. It is probably the most important this Commission will confront in the foreseeable future. If my estimate is at all accurate, then the majority opinion is indeed a remarkable document. For the opinion stands as little more than an unconvincing rationalization for the quite inadequate procedures used in this case, which, to date, have unearthed facts clearly insufficient to justify the proposed merger.

I will start with a review of the procedures and then pass to the primary deficiencies from which the majority's opinion suffers.

278-719—67——65

A. PROCEDURE

1. *The Hearing*

The Commission's usual procedure, when an application for transfer is received, is to decide, on the basis of a staff review of the issues involved, whether to approve the transfer or set the application for a full evidentiary hearing in which all relevant issues can be thoroughly explored. An application cannot normally be denied without full hearing. Hearings are rare and denials rarer. Often the scheduling of a hearing will cause the application to be withdrawn.

The hearing is usually concerned with such things as the transferee's financial and technical qualifications, or whether the station being transferred will have overlapping contours with one already owned by the transferee. Seldom is the character of the transferees called in question. One notable exception was the transfer of the earlier ABC's properties to the merged ABC-Paramount in 1953. On that occasion, because of possible antitrust violations by Paramount, a number of character issues were set for hearing.

But whether the issue be financial, technical or character, the virtue of an evidentiary hearing is that the Commission's staff has a chance to cross-examine all witnesses supporting the transfer and to offer evidence in rebuttal of the case made for transfer.

It is the most elementary assumption of our legal system that either side of many controversies can be made to seem reasonable and accurate if only the proponents of that side are allowed to present arguments and evidence. Only when both sides of a controversy are given full opportunity to present a case before an impartial tribunal do we have a degree of faith in the eventual resolution. This is what is called an adversary proceeding; upon it our legal system has staked a great deal.

The procedures employed in this case disregarded the virtues of an adversary proceeding in all but the most insignificant ways. For all practical purposes we had only one side of the present controversy presented.

Instead of setting this case for an evidentiary hearing before a hearing examiner it was decided to allow the principals

to the proposed transfer to present their case to the Commission sitting *en banc*. To this procedure I have not the slightest objection. It has all the advantages the majority cites and perhaps more. The manner in which it was carried out was, however, sorely deficient.

The Commission's hearing order contained this remarkable statement:

> "The Commission's Broadcast Bureau and Common Carrier Bureau will participate in the oral hearing. The Commission anticipates that both Bureaus will, in matters under their respective jurisdiction, raise all pertinent questions of law and policy so that we may have a complete record before us." [223]

In perfect accordance with the Commission's instructions, one member of the Broadcast Bureau appeared at the hearing and, in testimony occupying but 29 of the 607 pages of the hearing record, raised the issues with which the Commission should be concerned.[224] These issues, I am afraid, were apparent to all and had been fully raised in Commissioner Bartley's dissent to the original hearing order.[225]

What was needed was a thorough exploration of the factual underpinnings of both sides of the case. We did have the most complete presentation of the factual support of one side—but only one. There were presentations by Presidents of both ABC and ITT. A second officer of ABC spoke briefly. Extensive presentations were made by a lawyer for ABC and another for ITT. Still another lawyer for ITT spoke on the antitrust aspects of the case. A director of ITT presented evidence and opinion. And an economist hired by ITT testified on the economic implications of the merger. There was no cross-examination and no opportunity for cross-examination of any of these witnesses by the sole testifying member of the Commission's staff or by any other staff member. No expert was called to rebut any of the evidence presented by the parties to the merger. There was no opportunity for such presentation. The only test to which the proponents' case was put was examination

[223] American Broadcasting Cos. 4 FCC 2d 709, 711 (1966).

[224] Record 9–19, 184–202.

[225] American Broadcasting Cos. 4 FCC 2d 709, 711 (1966).

by the three Commissioners who evidenced some concern with the merger and its potential effect upon the nature of broadcasting in this country.

Commissioners and their staffs have a fulltime job keeping up with the voluminous workload with which the Commission is regularly called upon to deal. Each Commissioner is entitled to one legal and one engineering assistant. To expect more than a surface exploration of the vital issues in this proposed merger to have resulted from placing the burden of investigation and analysis on the Commissioners and their staffs is to mock the gravity of the issues involved.

Nothing more than what has happened could have been expected. Entire areas of relevant concern were barely touched in the hearing, and the resolution of very serious issues is now rested on vague and largely irrelevant assurances of interested parties. It may be that "it is the judgment of the majority of the Commission that the procedure followed in this case was extraordinarily painstaking and thorough and the most adequate in the circumstances of this case that our ingenuity could devise." [226] I cannot speak for the majority's ingenuity. It does seem to me, however, that the simple expedients of issuing instructions to the Commission's staff to thoroughly investigate all potential adverse effects of the merger, cross-examine and present rebuttal evidence would have been more "thorough" and worthy of being called "adequate."

2. *Post Hearing Procedures*

The course of events since the hearing demonstrates both the inadequacy of the record developed at the hearing and the lack of genuine concern which the majority evidences for a thorough exploration of the issues. Subsequent to the hearing, research by the offices of the Commissioners now dissenting revealed that the hearings on the passage of the 1934 Communications Act demonstrated very serious Congressional concern with the possibility of foreign influence on American broadcasting stations. The very company here seeking to control ABC, International Telephone and Telegraph, was the primary object of

[226] Majority opinion, *supra*.

this Congressional concern.[227] An examination of the record in this case revealed a woeful dearth of facts with regard to ITT's foreign operations. The three Commissioners who now dissent therefore proposed to send additional queries to ITT with regard to its foreign involvement. Because the hearing was over, the answers could not, of course, be subjected to cross-examination or even rebuttal, but at least the answers would provide some additional information. The majority which now approves the merger would have no part even in asking for the additional information. Therefore, in probably unprecedented action, queries were sent to ITT over the signatures of only three of the seven Commissioners.[228]

An even more egregious example of the stampeding procedures used to push this merger to consummation is provided by the manner in which it was approved. Hours before the final vote, we received a letter from tthe Antitrust Division which revealed that the Division was aware of a great deal of relevant information which this Commission did not have. It was our clear duty to ask the parties to provide all information which had been supplied to the Justice Department and to carefully consider that information. Approval of the merger obviously foreclosed that possibility.

B. SUBSTANTIVE CONSIDERATIONS

1. *The Antitrust Laws*

Section 7 of the Clayton Act prohibits mergers where the effect may be to substantially lessen competition or tend to create a monopoly.

The majority deals quite persuasively with the two Section 7 problems which do not exist. The two parties do not compete directly, so no anticompetitive effects of a "horizontal" nature (present competitiors in the same line of business) will result. Likewise, the present "vertical" relationships (buyer-seller) are of such relative insignificance in terms of the markets involved

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[227] *Hearings on S. 2910 Before the Senate Committee on Interstate Commerce*, 73d Cong., 2d Sess. 118–35, 160–73. See note 22, *supra*.

[228] Letter from Commissioners Robert T. Bartley, Kenneth A. Cox, and Nicholas Johnson to Mr. Harold S. Geneen, Nov. 2, 1966.

that there will be no substantial anticompetitive effect there either.[229]

The majority does not even mention the possible deterrent effect which this merger might have on others who would wish to start a network or simulate services which networks provide. As I have said, this deterrent effect is potentially so substantial that it may even cause the merger to violate Section 7.[230] In any case it is worthy of some attention. The majority gives it none. Likewise the potential for ITT's entry into networking over the air or via CATV is ignored by the majority, as is the potential impact of ITT as a leader in communications technology.

2. *ABC's Ability to Compete with the Other Major Networks*

I have set out at great length the reasons for believing that ABC's competitive position cannot be improved by this merger.[231] It can meet its capital requirements without the merger, and only more and better affiliates can truly affect its competitive stance. The majority apparently disagrees with one or both of these propositions. What bothers me more than its disagreement is the absence of any credible evidence or analysis to support its disagreement.

The majority opinion states that:

> "In the absence of the financial assistance that it will receive from the proposed merger it appears that ABC will be at a substantial competitive disadvantage and will be handicapped in its efforts to provide the programs and services to the public that it seeks to provide." [232]

Such a conclusion simply has no support in the record whatsoever except for bald and general assertions by interested parties. ITT, according to Justice Department information, does not reach such a conclusion.[233] Why must the majority?

It is not strange that ITT made no firm commitment of money to ABC. The best the record can support is that ITT

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[229] Future sales of advertising by ABC to ITT might be more substantial, but the majority ignores this possibility.

[230] See Part III, A., *supra*.

[231] See Part IV, *supra*.

[232] Majority opinion, *supra*.

[233] See Letter from Donald F. Turner to Rosel H. Hyde, Dec. 20, 1966.

will supply $50 million dollars to ABC over the next three years *if ABC needs that money*—stated more bluntly, if *ITT* chooses to conclude that ABC should have some of ITT's resources. Of course ABC could go bankrupt tomorrow, or do something so foolish as to require additional capital. But ITT knows what all but this Commission's majority can see so well. Any improvement in ABC's overall competitive performance is dependent on the general acceptability of UHF. Changes in program expenditures will be irrelevant and have not been planned. All contemplated expenditures can be financed by ABC alone. ITT is betting that ABC will improve its competitive position because of UHF development. ITT chose to merge in anticipation of profits, and the opportunity they provide for further acquisitions—not out of a desire to compete with the Ford Foundation in funding non-commercial broadcasting.

It is shocking to find in the majority opinion the attempt to picture ABC as a struggling company: "free competition cannot long survive if one such operation is losing money while others are profiting." [234] As I have pointed out, ABC is thriving, with net profits of $15,700,000 in 1965—7.1 percent of total revenues and 100 percent of the depreciated value of its tangible property. It is only because the broadcasting division of the parent is internally divided into separate accounting units for the network and the several broadcasting facilities that it is possible to demonstrate a loss in any part of the company.[235] The statement that "Program expenses have . . . during recent years . . . increased more rapidly than revenue for ABC" [236] is highly misleading. It is partially true only of the network considered separately from the stations and other parts of the corporate structure. Even then it is true only for the past three years, not for 1965 alone, the last twelve months for which figures are available.

The majority's statement that "Commitments made under existing loan agreements limit further borrowing by ABC to $6 million," while understandable in view of the ambiguous

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[234] Majority opinion, *supra*.
[235] Record 96.
[236] Majority opinion, *supra*.

and misleading representations by company officials during the hearing, as we have seen, is inaccurate.[237] Existing loan agreements limit borrowing to 50 percent of the gross value of assets. Current borrowing is $6 million short of half of the value of present assets. All additional permanent assets, acquired through expenditure of profits, would raise the borrowing limit.[238] The superficiality of the hearing is well illustrated by the fact that we have no precise figure of the borrowing which ABC could reasonably be expected to undertake without approaching the contractual limits on its debt instruments. Considering that a large part of any profits earned will undoubtedly be devoted to permanent assets, the figure of $6 million is clearly too low. In addition, of course, issuance of stock by ABC presumably could be used to finance foreseeable expenditures.

In short there is no credible evidence either that ABC has changed its expansion plans because of the merger or that ABC will not be able to do everything it has previously planned without the merger. The majority has built its supposed justification for the merger of little more than straw—straw, I might add, which the parties themselves have discarded.

C. DANGER OF EFFECTS ON PROGRAMMING ADVERSE TO THE PUBLIC INTEREST

The majority's opinion is perhaps most inadequate in its failure to address the potential dangers inherent in this merger. The subject is introduced with a hopeful recitation:

> "Thorough, fearless and unbiased collection, dissemination and analysis of news is, we think, crucial to a free society. There is widespread and growing reliance of the public upon broadcast sources of news and news commentary and upon public affairs programming and other kinds of informative programming." [239]

But this is the only attention given in the opinion to this interest "crucial to a free society." The possibiltiy that ITT's foreign interests, defense, space or other business interests might in-

[237] See note 209, *supra*.

[238] See Part IV, B., *supra*.

[239] Majority opinion, *supra*.

fluence ABC programming is discounted on the basis of ITT officials' self-serving assurances that ABC's editorial staff will be accorded full independence. I can only repeat once more that such assurances are logically irrelevant to the real problems involved in this merger: the subtle pressures to avoid jeopardizing the interests of a parent conglomerate which necessarily are felt by the employees of a broadcasting subsidiary of that parent.

Admittedly many of our prominent licensees are large conglomerates. A few are even larger than ITT. But these control but one, or a few, radio or TV stations. Here we are concerned with control of a radio and a TV network, as well as seventeen licensed broadcast properties. Westinghouse Electric Corporation is a large conglomerate and holds a large number of station licenses. But there can be no comparison between the impact of programming by Westinghouse and that by the ABC network. Furthermore, of all the large American corporations there are few whose particular business interests are so clearly of the type which should not be joined with major broadcasting facilities as are those of ITT—a company whose income is derived in largest measure either from foreign subsidiaries or from domestic space and defense contracts. Scarcely a day goes by during which ITT's economic interests are not affected by some big news event at home or abroad.

Despite the majority's protestations that the issues in this case have long ago been resolved there is only one example of a licensee whose business interests and broadcast properties present a situation in any way comparable to that which we create by this merger. That is the case of RCA's ownership of NBC. That ownership, however, antedated this Commission's existence and occurred by internal expansion, not merger. It certainly cannot be cited as excuse for allowing a second network to come under the control of a similar company. To say that, since RCA owns NBC, ITT must be allowed to acquire ABC, is to say that things are so bad there is no point in doing anything now to stop them from getting worse. I, for one, can see great virtue in having only one-third rather than two-thirds of the major networks owned by conglomerate electronics corporations heavily engaged in domestic defense and space work

and in foreign countries. Perhaps we should consider requiring RCA to divest itself of NBC, but nothing could be more absurd than the majority's suggestion that "We could not in good conscience forbid ABC to merge with ITT without instituting proceedings to separate NBC and RCA." [240] Rules of law with only prospective effect are common. This Commission itself recently proposed a rule, with members of the current majority in concurrence, which would forbid future acquisition of more than three large television stations by any owner but would not force divestiture by any of the several current owners thus situated.[241]

And so we come to the end of what has been for me an eventful introduction into the issues of broadcast ownership in America. If the merger is to come about I can only hope that the concerns I feel will prove groundless. But whether they do or not, I have no question that the exercise has been worthwhile. Many have participated in this case. Many more have, and will reflect upon it. The experience cannot help but produce a greater awareness on the part of all Americans of their responsibility for the integrity of the public's media in a society of free men.

APPENDIX A

DEPARTMENT OF JUSTICE,
Washington, December 20, 1966.

Honorable ROSEL H. HYDE,
Chairman, Federal Communications Commission,
Washington, D.C.

DEAR MR. CHAIRMAN: As I informed you in my letter of November 3, we have been conducting an intensive study of the possible effects of the proposed acquisition by International Telephone & Telegraph Corporation ("ITT") of American Broadcasting Companies, Inc. ("ABC"). I also stated that our analysis as of that date suggested "a sufficient possibility of significant anticompetitive effects to indicate that substantial antitrust questions are presented." It was therefore necessary

[240] *Ibid.*

[241] FCC 64-1171, 3 RR 2d 909 (1964).

for us to continue our investigation and review of this extremely complex matter before coming to any final determination.

On the basis of the information currently available to us, we have reached the following conclusions:

(1) There are several anticompetitive consequences that may possibly flow from an ITT–ABC merger, effects which might conceivably be substantial.

(2) The possibilities of such anticompetitive consequences seem sufficiently speculative that we are not presently contemplating an action under the antitrust laws to enjoin consummation of the merger.

(3) On the other hand, we believe the possibilities of adverse effects are significant enough that we should call them to your attention, and that they deserve full and serious consideration by the Commission in making its determination whether, in light of these and other pertinent factors, the acquisition of ABC by ITT would serve "the public interest, convenience and necessity."

Let me briefly summarize the aspects of this merger which concern us and would also be of concern to the Commission.

In reviewing the proposed merger, we concluded that it is in the broadcasting industry and related fields that signficant competitive effects may be discernible. The concentration of control in three networks over access to the principal stations and their audiences places a high premium on possible developments which would dilute network power. Accordingly we have inquired into potential effects of this merger in diminishing independent activities by ITT in broadcasting, in CATV and other fields competitive with broadcasting, and in the development and application of communications technology and equipment which open the broadcasting field to others.

Our investigation indicates that ITT, which characterizes itself as one of the world's leading suppliers of electronics and telecommunications products and services, has been seriously interested in entering the domestic broadcasting business. It considered the possibility of acquiring one or another of the national networks, various television station groups, and individual stations. ITT's entry into broadcasting by station ownership, an alternative to the ABC acquisition, would have

given it a base for subsequent independent entry into the network business. While other group-station owners have not attempted network operation, most lack ITT's resources. Hence the possibility of such an entry by ITT cannot be dismissed.

ITT's interest in broadcasting is also shown by its interest in the CATV business. Commencing in 1965 it invested almost $7 million in construction and ownership of CATV systems. Among the possibilities contemplated were expansion of this investment, pay-TV operations, and creation of a network linking whole areas of local CATV's franchises. ITT's interest in these possibilities and efforts in this field apparently ceased after it agreed on merger with ABC—a sequence which indicates a possible cause-and-effect relationship.

The importance of ITT's independent entry into broadcasting, via standard or CATV net working, of course depends upon the number of other potential entrants likely to come in on a comparable scale—a subject as to which presently available information is sketchy.

A broader problem may arise from the integration of a large important communications technology and equipment firm with an existing network. It appears probable that the development and application of new technology in communications will tend to dilute the power of the existing networks and reduce barriers to entry in the broadcasting field. For example, CATV is now recognized as competitive or potentially competitive with the existing system of TV broadcasting. CATV systems can reduce the disparity in signal quality between VHF and UHF, and can dilute the power of the local stations and the networks by bringing in additional channels and by originating their own programming. Predictions have been made of a national microwave-coaxial cable network which would deliver broadcast entertainment and many other services (facsimile reproduction, data, banking and shopping services) to the home. The result of this development—which corresponds to the possibility of an interconnected grid of CATV systems contemplated by ITT—would be to bypass the barrier of the existing limitations on local stations and to eliminate the present network power arising from such barriers. Similarly, an-

other technological development, satellite transmission of programs, will make available more and cheaper channels. One of the ultimate possibilities envisaged is direct satellite transmission to the home listener which would bypass local stations, thereby eliminating that limitation on entry into network broadcasting. ITT's commitment to a heavy investment in an existing network may blunt its efforts in developing the technology for competitive broadcasting methods.

Communications technology is now in a highly dynamic state and it is not possible to predict with confidence the future means of broadcasting transmission and reception and their impact upon the broadcasting industry. It may be that innovation in communications technology will not be threatened because of adequate competition in the latter field. But one of the networks, NBC, is already integrated with a leading supplier of technology and equipment. Approval of the present merger may lead to a similar transaction involving CBS. Other firms in the communications field have investments in broadcast stations. It is probable that heavy commitments of communications firms in the existing structure of broadcasting give them an interest in retarding the pace of the development and application of technology which would lead to more competition in broadcasting.

There are other potential competitive effects of this merger which give rise to some concern. Networks unintegrated with common carriers or equipment manufacturers are more likely to bargain down the price of transmission services and equipment. While they do this in order to increase their own revenues or reduce costs, the effect may be to lower barriers to entry for other potential networks—a recent example was ITT's coverage of the Gemini "splash-downs" from its mobile ground station on naval vessels, which was the subject of a complaint by the networks before the FCC.

Moreover, it is possible that the acquisition of a network by a large diversified industrial concern may adversely affect the sources of revenue and the viability of new networks because of the placement of the firm's own advertising and because of the possibility of reciprocal dealings and leverage on other adver-

tisers. ITT is now a substantial purchaser from important advertisers, and the intended expansion of its domestic business activities will increase the scale of such purchases. Conversely, the availability of advertising time on its own network to an enterprise like ITT, increasingly involved in consumer goods and services, may give it an advantage over its competitors in those fields by enabling it to take advantage of unsold advertising time.

Our investigation has also led us to examine claims made that the acquisition is needed to assist ABC in its competition with the other two major networks. We have found little to support these claims. While ABC has been the weakest network in coverage and revenues, the company has steadily narrowed the gap and its overall broadcasting operations have been profitable. Additional capital is desired by ABC for certain projected expansions, but it has not explored other sources of financing and did not initiate the proposed merger with ITT. ITT's estimates indicate that ABC's earnings growth rate over the next five years would be 16%. More importantly, it was anticipated that after capital expenditures and debt repayment, and assuming ABC continues in third place, it would yield a cash flow approaching $100 million between 1966 and 1970, almost all of which was thought by ITT to be available for reinvestment *outside* the television business.

As this brief review indicates, the ITT–ABC acquisition raises possibilities of significant competitive problems. So far as we are aware the Commission has not had before it information with respect to ITT's consideration of entry into the CATV business, its estimate of ABC's prospects, and the future impact upon broadcasting of potential technological developments. Because of the uncertainties inherent in predicting developments in these rapidly changing areas, we cannot conclude on the basis of the facts presently available to us that the competitive effects are sufficiently determinable to make it appropriate for the Department of Justice to institute suit at this time under Section 7 of the Clayton Act. We suggest, however, that these anticompetitive possibilities warrant serious consideration by the Commission in its pending proceeding

since in applying the public interest standard of the Communications Act, the Commission is obliged to consider the competitive aspects along with other public interest issues.

We regret that the complexity of this problem has obliged us to delay until now this submission of our views.

Sincerely yours,

DONALD F. TURNER,
Assistant Attorney General, Antitrust Division.

APPENDIX B

CHRONOLOGY AND DOCUMENTS INDEX

Dec. 3, 1965: The impending merger of ABC and ITT is reported in the New York Times.

Feb. 14, 1965: ABC and ITT enter into the merger agreement.

Mar. 31, 1965: The applications for assignment of license and transfer of control are filed with the Commission by ABC. These applications included: detailed applications for each of the stations; an exchange of letters between Mr. Geneen and Mr. Goldenson (Mar. 18, 1966 and Mar. 28, 1966) detailing the understandings between the two companies as to the relationship of the parent and subsidiary; ABC organization charts; ABC program standards and policy statements; a description of ABC-owned radio and TV stations and their organizational relationship in the company; a narrative history and analysis, "ABC—Past, Present, and Future"; financial data on the relative positions of CBS, RCA, ITT, ABC, and ITT–ABC; Proxy statements of ABC and ITT (both dated Mar. 25, 1966); ITT's and ABC's 1965 Annual Reports; a listing of ABC's tangible property used in broadcasting; ITT–ABC Statement of Incorporation and Bylaws; proposed Boards of Directors for the new ABC and ITT as well as the other business interests of those directors; interlocking broadcast interests of certain stockholders and the proposed remedies.

Apr. 14, 1966: The ABC applications are accepted for filing by the Commission.

May 11, 1966: A petition to deny the applications is filed by

Hubbard Broadcasting, Inc., alleging that since its AM station (KOB, Albuquerque, N.M.) is embroiled in a dispute with ABC's WABC (New York), and WABC's license has not been renewed, WABC has nothing to transfer, and to effect any transfer would prejudice Hubbard's rights in the proceeding.

June 8, 1966: Letter from FCC Chairman Rosel H. Hyde to Assistant Attorney General (Antitrust) Donald F. Turner asking to be kept informed of the Division's studies and conclusions.

June 21, 1966: Letter from Donald F. Turner to Chairman Rosel H. Hyde acknowledging that the Division was examining the merger.

June 30, 1966: Letter from Rosel H. Hyde to Donald F. Turner saying the Commission planned to take up the merger very shortly and asking when the Division's views would be available.

July 20, 1966: By a 4–2 vote letters are sent to Mr. Harold S. Geneen (President, ITT) and Mr. Leonard Goldenson (President, ABC) asking for further information on the financial resources ITT plans to provide ABC, and the question of autonomous operation of ABC as an ITT subsidiary.

July 25, 1966: Mr. Geneen and Mr. Goldenson reply to the Commission on the above questions.

July 27, 1966: Letter from Donald F. Turner to Rosel H. Hyde saying that the Division's views will not be available for for some time, but that the complexity and importance of the issues precludes hasty conclusions.

Aug. 18, 1966: The Commission orders an oral, *en banc* hearing.

Sept. 5, 1966: The Commission announces the order of appearances and amount of time to be used at the oral hearing.

Sept. 7, 1966: ABC and ITT file further evidence in the proceeding including: ABC station facilities; competition faced in markets with owned stations; audience and financial comparison of network affiliates in TV and radio; ITT products and services, purchases from ABC, U.S. TV advertising, media advertising, executive turnover, and an analysis of other present and potential corporate dealings between ABC and ITT.

Sept. 19–20, 1966; Commission holds oral hearing on the proposed merger. Transcript record of hearing is prepared.

Oct. 6, 1966: Letter from Robert Bennett (Legal Assistant to Commissioner Johnson) to Mr. Marcus Cohn (Counsel for ITT) requesting copies of Mr. Geneen's recent speeches and statements.

Oct. 10, 1966: Mr. Cohn's reply, including 12 speeches and statments of Mr. Geneen.

Oct. 25, 1966: Letter from Rosel H. Hyde to Donald F. Turner saying the Commission would probably make a decision soon and reminding him of the Commission's continuing liaison and interest in receiving any Division views on the merger.

Nov. 2, 1966: Letter from Commissioners Bartley, Cox, and Johnson to Mr. Geneen asking for further information on ITT's foreign interests including: a list of subsidiaries, directors, stockholders; joint ventures and agreements; contracts; a list of confiscations; foreign shareholders in ITT with largest interests; employees whose duties include liaison with foreign governments; and any significant litigation involving foreign interests.

Nov. 3, 1966: Letter from Donald F. Turner to Rosel H. Hyde saying that the Division's intense study is not complete, but that substantial antitrust questions are present.

Nov. 17, 1966: Mr. Geneen replies to the letter of Nov. 2 from three Commissioners, including the requested material, of which the listing of foreign stockholders is denominated confidential.

Nov. 23, 1966: Letter from Commissioners Cox and Johnson to Mr. Geneen asking for further information on ITT's foreign operations including: its Chilean contracts; foreign subsidiaries with ITT minority interests; foreign licensing, sales and franchise agreements; government liaison and testimony to government bodies; its Cuban subsidiaries; ITT statements on expropriation and foreign investment; a country-by-country breakdown of assets and investments; the government's reason's for expropriating ITT property; a narrative on how ITT would deal with a conflict between ITT's foreign interests and ABC's independence of news presentations.

Dec. 8, 1966: Mr. Geneen replies to the letter of November 23, including material on the Chilean contracts; and licensing, sales and franchising agreements which were denominated confidential.

Dec. 19, 1966: Assistant Attorney General (Criminal) Fred M. Vinson replies to the FCC General Counsel's letter of the same date stating that neither the Department nor a grand jury had found evidence to support prosecution of the allegations that ITT official had violated the Corrupt Practices Act.

Dec. 20, 1966: Letter from Donald F. Turner to Rosel H. Hyde analyzing the public interest and antitrust issues of the merger. This letter is set forth in full as Appendix A.

Dec. 21, 1966: Mr. Marcus Cohn (ITT Counsel) files rebuttal letter to December 20 letter of Mr. Turner.

Dec. 21, 1966: The Commission grants the applications and issues the opinions of which this Appendix is a part.